

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

COY PHELPS,)	
)	
Plaintiff,)	
)	Civ. No. 05-CV-40003-GAO
v.)	
)	
DAVID WINN, BRADLEY POTOLICCHIO,)	
and HOWARD HAAS,)	
)	
Defendants.)	
)	

DEFENDANTS' ANSWER TO PLAINTIFF'S AMENDED COMPLAINT

Defendants David Winn, Bradley Potolicchio, and Howard Haas, collectively the “Defendants,”¹ through their undersigned counsel, herein respond to the Amended Complaint of the plaintiff, Coy Phelps (“Plaintiff”), pro se, as follows:²

¹ By Order dated 27, 2007, the Court dismissed several causes of action and defendants from Plaintiff’s Amended Complaint. The only surviving defendants in this action are David Winn, Bradley Potolicchio, and Howard Haas. The only surviving claims are: (1) that when Plaintiff was transferred to the Federal Medical Center in Devens, Massachusetts (“FMC Devens”), Defendant Winn would not allow him to keep his religious material, while others of different religious persuasion were allowed to keep their religious material; (2) that Defendant Potolicchio assaulted Plaintiff without reason and filed a false disciplinary report causing Plaintiff to be housed on disciplinary detention; and (3) that Defendant Haas did not exercise his independent professional judgement when he allowed Plaintiff to be placed in a locked room.

² Because the majority of Plaintiff’s Amended Complaint is not set forth in numbered paragraph form, and other portions of the Amended Complaint are numbered (but those numbers are recycled throughout the Amended Complaint), Defendants have added numbers (all beginning with C—) to the margins of the Amended Complaint (as set forth in Exhibit A to this Answer). Defendants refer to the numbered paragraphs of Exhibit A in their Answer to the Amended Complaint. Other than the numbers added to the margins, Exhibit A is a true and correct copy of Plaintiff’s Amended Complaint.

C-001. Defendants admit that the Court has jurisdiction of this matter under 28 U.S.C. §1331. The Defendants deny the remaining allegations asserted in this paragraph.

C-002. Defendants deny the allegations asserted in this paragraph.

C-003. Defendants admit that the Plaintiff is Coy Phelps Coy Phelps, #78872-011, whose mailing address is FMC Devens, P. O. Box 879, Ayer, Massachusetts, 01432.

C-004. Defendants do not have to answer because the allegations against all of the individuals named in Plaintiff's Amended Complaint, except for Defendants Winn, Potolicchio, and Haas, have been dismissed pursuant to the Court's Order, dated September 27, 2007. Defendants admit that Defendants Winn, Potolicchio, and Haas are being sued in their official capacities. Defendants deny the remaining allegations asserted in this paragraph.

C-005. Defendants do not have to answer because the allegations against all of the individuals named in Plaintiff's Amended Complaint, except for Defendants Winn, Potolicchio, and Haas, have been dismissed pursuant to the Court's Order, dated September 27, 2007. Defendants admit that Defendants Winn, Potolicchio, and Haas are employed at FMC Devens.

C-006. Defendants do not have to answer because the allegations against all of the individuals named in Plaintiff's Amended Complaint, except for Defendants Winn, Potolicchio, and Haas, have been dismissed pursuant to the Court's Order, dated September 27, 2007. Defendants admit that Defendants Winn, Potolicchio, and Haas are employed at FMC Devens. Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-007. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (2) this paragraph

contains a question to which no response is required. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-008. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; (2) this paragraph contains a question to which no response is required; and (3) the U.S. Attorney is not a named defendant in this action. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-009. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (2) this paragraph contains a question to which no response is required. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-010. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; (2) this paragraph contains a question to which no response is required; and (3) the U.S. Attorney is not a named defendant in this action. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-011. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (2) this paragraph contains a question to which no response is required. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-012. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (2) this paragraph

contains a question to which no response is required. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-013. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (2) this paragraph contains a question to which no response is required. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-014. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (2) this paragraph contains a question to which no response is required. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-015. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (2) this paragraph contains a question to which no response is required. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-016. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (2) this paragraph contains a question to which no response is required. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-017. Defendants do not have to answer because this paragraph contains a question to which no response is required. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-018. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; (2) this paragraph contains a question to which no response is required; and (3) the U.S. Attorney is not a named defendant in this action. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-019. Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-020. Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-021. Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-022. Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-023. Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-024. Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-025. Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-026. Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-027. Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-028. Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-029. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (2) this paragraph contains legal conclusions to which no response is required. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-030. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (2) this paragraph contains legal conclusions to which no response is required. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-031. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (2) this paragraph contains legal conclusions to which no response is required. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-032. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (2) this paragraph contains legal conclusions to which no response is required. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-033. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (2) this paragraph

contains legal conclusions to which no response is required. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-034. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (2) this paragraph contains legal conclusions to which no response is required. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-035. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (2) this paragraph contains legal conclusions to which no response is required. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-036. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (2) this paragraph contains legal conclusions to which no response is required. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-037. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (2) this paragraph contains legal conclusions to which no response is required. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-038. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (2) this paragraph contains legal conclusions to which no response is required. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-039. Defendants do not have to answer because this paragraph contains legal conclusions to which no response is required. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-040. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (2) this paragraph contains legal conclusions to which no response is required. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-041. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (2) this paragraph contains legal conclusions to which no response is required. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-042. Defendants do not have to answer because the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-043. Defendants do not have to answer because the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007. To the extent an answer is required, Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-044. Defendants do not have to answer because the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007. To the extent an answer is required, Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-045. Defendants do not have to answer because this paragraph contains legal conclusions to which no response is required. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-046. Defendants do not have to answer because the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007. To the extent an answer is required, Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-047. Defendants do not have to answer because the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007. To the extent an answer is required, Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-048. Defendants do not have to answer because this paragraph contains legal conclusions to which no response is required. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-049. Defendants do not have to answer because the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007. To the extent an answer is required, Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-050. Defendants do not have to answer because the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-051. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (2) this paragraph contains legal conclusions to which no response is required. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-052. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (2) this paragraph contains legal conclusions to which no response is required. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-053. Defendants deny the allegations asserted in this paragraph.

C-054. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (2) this paragraph contains legal conclusions to which no response is required. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-055. Defendants do not have to answer because the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-056. Defendants do not have to answer because the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-057. Defendants deny the allegations asserted in this paragraph.

C-058. Defendants do not have to answer because this paragraph contains legal conclusions to which no response is required. To the extent an answer is required, the

Defendants deny the allegations asserted in this paragraph.

C-059. Defendants do not have to answer because the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007. To the extent an answer is required, Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-060. Defendants do not have to answer because the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007. To the extent an answer is required, Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-061. Defendants deny the allegations asserted in this paragraph.

C-062. Defendants admit that Plaintiff approached Defendant Potolicchio in Defendant's office, and Plaintiff handed Defendant Potolicchio an inmate request to staff. Defendants deny the remaining allegations asserted in this paragraph.

C-063. Defendants deny the allegations asserted in this paragraph.

C-064. Defendants admit that: (1) Plaintiff approached a cart that was in the hallway; (2) Defendant Potolicchio believed that Plaintiff removed something from the cart; and (3) Defendant Potolicchio inquired into what Plaintiff removed from the cart. Defendants deny the remaining allegations asserted in this paragraph.

C-065. Defendants admit that Defendant Potolicchio searched Plaintiff in order to determine whether and what Plaintiff had removed something from a cart in the hallway. Defendants deny the remaining allegations asserted in this paragraph.

C-066. Defendants deny the allegations asserted in this paragraph.

C-067. Defendants deny the allegations asserted in this paragraph.

C-068. Defendants deny the allegations asserted in this paragraph.

C-069. Defendants admit that Plaintiff was taken to disciplinary segregation. Defendants deny the remaining allegations asserted in this paragraph.

C-070. Defendants deny the allegations asserted in this paragraph.

C-071. Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-072. Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-073. Defendants deny the allegations asserted in this paragraph.

C-074. Defendants do not have to answer because the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-075. Defendants do not have to answer because the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-076. Defendants do not have to answer because the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007. To the extent an answer is required, Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-077. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; (2) this paragraph contains

legal conclusions to which no response is required; and (3) this paragraph contains a question to which no response is required. To the extent an answer is required, Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-078. Defendants do not have to answer because the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007. To the extent an answer is required, Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-079. Defendants do not have to answer because the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007. To the extent an answer is required, Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-080. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; (2) this paragraph contains a question to which no response is required. To the extent an answer is required, Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-081. Defendants do not have to answer because the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007. To the extent an answer is required, Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-082. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (2) this paragraph contains legal conclusions to which no response is required. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-083. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (2) this paragraph contains legal conclusions to which no response is required. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-084. Defendants do not have to answer because the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007. To the extent an answer is required, Defendants deny the allegations in this paragraph.

C-085. Defendants do not have to answer because the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007. To the extent an answer is required, Defendants deny the allegations in this paragraph.

C-086. Defendants do not have to answer because the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007. To the extent an answer is required, Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-087. Defendants do not have to answer because the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007. To the extent an answer is required, Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-088. Defendants do not have to answer because the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007. To the extent an answer is required, Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-089. Defendants do not have to answer because the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007. To the extent an answer is required, Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-090. Defendants do not have to answer because the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007. To the extent an answer is required, Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-091. Defendants do not have to answer because the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007. To the extent an answer is required, Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-092. Defendants do not have to answer because the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007. To the extent an answer is required, Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-093. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (2) this paragraph

contains legal conclusions to which no response is required. To the extent an answer is required, Defendants deny the allegations asserted in this paragraph.

C-094. Defendants do not have to answer because the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007. To the extent an answer is required, Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-095. Defendants do not have to answer because the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007. To the extent an answer is required, Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-96. Defendants do not have to answer because the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007. To the extent an answer is required, Defendants deny the allegations asserted in this paragraph.

C-097. Defendants do not have to answer because the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007. To the extent an answer is required, Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-098. Defendants do not have to answer because the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007. To the extent an answer is required, Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-099. Defendants do not have to answer because the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007. To the extent an answer is required, Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-100. Defendants do not have to answer because the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007. To the extent an answer is required, Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-101. Defendants do not have to answer because the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007. To the extent an answer is required, Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-102. Defendants do not have to answer because the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007. To the extent an answer is required, Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-103. Defendants do not have to answer because the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007. To the extent an answer is required, Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-104. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (2) this paragraph

contains legal conclusions to which no response is required. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-105. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (2) this paragraph contains legal conclusions to which no response is required. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-106. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (2) this paragraph contains legal conclusions to which no response is required. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-107. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (2) this paragraph contains legal conclusions to which no response is required. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-108. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (2) this paragraph contains legal conclusions to which no response is required. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-109. Defendants do not have to answer because the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007. To the extent an answer is required, the Defendants admit that Plaintiff was previously found not guilty by reason of

insanity and currently is a civil committee. Defendants deny the remaining allegations asserted in this paragraph.

C-110. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (2) this paragraph contains legal conclusions to which no response is required. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-111. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (2) this paragraph contains legal conclusions to which no response is required. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-112. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (2) this paragraph contains legal conclusions to which no response is required. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-113. Defendants do not have to answer because the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-114. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (2) this paragraph contains legal conclusions to which no response is required. To the extent an answer is required, Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-115. Defendants deny the allegations asserted in this paragraph.

C-116. Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-117. Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-118. Defendants do not have to answer because this paragraph contains legal conclusions to which no response is required. To the extent an answer is required, Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-119. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; (2) this paragraph contains legal conclusions to which no response is required; and (3) this paragraph contains a question to which no response is required. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-120. Defendants do not have to answer because this paragraph contains legal conclusions to which no response is required. To the extent an answer is required, Defendants deny the allegations asserted in this paragraph.

C-121. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; (2) this paragraph contains legal conclusions to which no response is required; and (3) this paragraph contains a question to which no response is required. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-122. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (2) this paragraph contains legal conclusions to which no response is required. To the extent that an answer is required, Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-123. Defendants do not have to answer because the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007. To the extent that an answer is required, Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment, and, therefore, deny the allegations asserted in this paragraph.

C-124. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (2) this paragraph contains legal conclusions to which no response is required. To the extent that an answer is required, Defendants deny the allegations asserted in this paragraph.

C-125. Defendants do not have to answer because the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007. To the extent that an answer is required, Defendants deny the allegations asserted in this paragraph.

C-126. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (2) this paragraph contains legal conclusions to which no response is required. To the extent that an answer is required, Defendants deny the allegations asserted in this paragraph.

C-127. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (2) this paragraph

contains legal conclusions to which no response is required. To the extent that an answer is required, Defendants deny the allegations asserted in this paragraph.

C-128. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (2) this paragraph contains legal conclusions to which no response is required. To the extent that an answer is required, Defendants deny the allegations asserted in this paragraph.

C-129. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (2) this paragraph contains legal conclusions to which no response is required. To the extent that an answer is required, Defendants deny the allegations asserted in this paragraph.

C-130. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (2) this paragraph contains legal conclusions to which no response is required. To the extent that an answer is required, Defendants deny the allegations asserted in this paragraph.

C-131. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (2) this paragraph contains legal conclusions to which no response is required. To the extent that an answer is required, Defendants deny the allegations asserted in this paragraph.

C-132. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (2) this paragraph contains legal conclusions to which no response is required. To the extent that an answer is required, Defendants deny the allegations asserted in this paragraph.

C-133. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (2) this paragraph contains legal conclusions to which no response is required. To the extent that an answer is required, Defendants deny the allegations asserted in this paragraph.

C-134. Defendants do not have to answer because: (1) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (2) this paragraph contains legal conclusions to which no response is required. To the extent that an answer is required, Defendants deny the allegations asserted in this paragraph.

C-135. Defendants do not have to answer because: (1) this paragraph of the Amended Complaint consists of a prayer for relief to which no response is required; and (2) the allegations in this paragraph were dismissed pursuant to the Court's Order of September 27, 2007; and (3) this paragraph contains legal conclusions to which no response is required. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

C-136. Defendants do not have to answer because this paragraph of the Amended Complaint consists of a certification by Plaintiff to which no response is required. To the extent an answer is required, the Defendants deny the allegations asserted in this paragraph.

The United States denies each and every allegation in Plaintiff's Amended Complaint not previously specifically admitted or otherwise qualified.

DEFENSES

FIRST: The Amended Complaint fails to state a claim upon which relief can be granted under the United States Constitution.

SECOND: The Amended Complaint fails to state a claim upon which relief can be granted under the Civil Rights Act, 42 U.S.C. § 1983.

THIRD: The Court lacks subject matter jurisdiction to entertain Plaintiff's Amended Complaint.

FOURTH: Defendants plead the defense of qualified immunity.

FIFTH: Defendants assert that Plaintiff's Amended Complaint must be dismissed because Plaintiff failed to properly, fully, and timely exhaust his administrative remedies.

SIXTH: Defendants assert that Plaintiff's Amended Complaint must be dismissed because Defendants did not violate Plaintiff's civil or due process rights. Further, Plaintiff lacks evidence to support his claim that Defendants violated his civil rights, due process rights, and/or rights under the Fifth Amendment and the Fourteenth Amendment to the United States Constitution.

SEVENTH: To the extent Plaintiff seeks to recover punitive or exemplary damages against the Defendants (who are agents of the United States), the Defendants plead the defenses of sovereign immunity and lack of subject matter jurisdiction, under 28 U.S.C. § 2674.

EIGHTH: To the extent Plaintiff seeks to recover attorney's fees and costs against the Defendants (who are agents of the United States), he is not entitled to such costs due to his pro se status.

WHEREFORE, the Defendants answer that Plaintiff should take nothing by his Amended Complaint and prays that judgment, together with interest, disbursements, costs, and any other just and appropriate relief, be rendered in favor of the Defendants.

Respectfully submitted,

MICHAEL J. SULLIVAN

United States Attorney

By: /s/ Sonya A. Rao
SONYA A. RAO
Assistant U.S. Attorney
John J. Moakley U.S. Courthouse
1 Courthouse Way, Suite 9200
Boston, MA 02210
(617) 748-3100

DATE: December 3, 2007

CERTIFICATE OF SERVICE

I certify that, on December 3, 2007, I caused a copy of the foregoing **DEFENDANTS' ANSWER TO PLAINTIFF'S AMENDED COMPLAINT** to be served, via first class mail, postage pre-paid, on the following pro se Plaintiff:

Coy Phelps, #78872-011
FMC Devens
P. O. Box 879
Ayer, Massachusetts 01432

By: /s/ Sonya A. Rao
SONYA A. RAO
Assistant U.S. Attorney
John J. Moakley U.S. Courthouse
1 Courthouse Way, Suite 9200
Boston, MA 02210
(617) 748-3100

05-40003

ORIGINAL

CASE NUMBER

FILED

IN CLERK'S OFFICE

ON

UNITED STATES DISTRICT COURT NO. 2 P 3:28

DISTRICT OF MASSACHUSETTS

U.S. DISTRICT COURT

DISTRICT OF MASS.

COY PHELPS

PETITIONER

-v-

05-40003

DAVID WINN, AND MIKE ROLLINGER, AND

JAMES DOLD, AND S. THOMPSON, AND

S. HARVEY, AND B. PETOLICCHIO, AND

J. DAVIS, AND J. FLETCHER, AND

W. BLAZON, AND H. HAAS, K. LEONARD, AND

J. SONNEGA, ET AL

RESPONDENTS

FIRST AMENDED

PERSONAL INJURY AND A CIVIL RIGHTS

COMPLAINT

DATE: 1-30-2005

Coy Phelps

IN PRO SE

COY PHELPS 78872-011

FMC-DEVENS

P.O. BOX 879

AYER, MASSACHUSETTS

C1432

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

COY PHELPS

CASE NO: 05-40003-GAO

PETITIONER

-v-

A

DAVID W. WEN MIKE BOLLINGER,
JAMES DOLD, S. THOMPSON, S. HARVEY
B. POTOLOVICCHIO, J. FLETCHER,
J. DAVIS, W. BLAZON, H. HAAS,
K. LEONARD, J. SONNESEN, ET AL.

RESPONDENT(S)

PERSONAL INJURY
AND A
CIVIL RIGHTS
COMPLAINT
(A BIVENS ACTION)

I

JURISDICTION AND AUTHORITY

C-001

THIS COURT HAS JURISDICTION TO REVIEW THIS COMPLAINT AND TO GRANT
RELIEF AND REMEDY UNDER BIVENS V. SIX UNKNOWN NAMED AGENTS OF THE
FEDERAL BUREAU OF NARCOTICS, 1971, 403 U.S. 388, 29 LED 2d 619,
91 S. CT 1999, AND 5 USC 701-706 (JUDICIAL REVIEW OF AGENCY ACTIONS),
28 USC 1331 (FEDERAL QUESTION), 28 USC 1343 (CIVIL RIGHTS VINDICATION),
28 USC 1346 (FEDERAL TORTS), 28 USC 2201-2202 (DECLARATORY JUDGMENT),
28 USC 2674-2680 (US LIABILITY), 42 USC 233 (PUBLIC HEALTH SERVICE), AND
42 USC 1988 (COMMON LAW-ATTORNEY FEES), AND THE AMERICANS WITH
DISABILITIES ACT (42 USC 12101), RELIGIOUS FREEDOM ACTS (42 USC 2000bb - 2000cc),
AND FREEDOM OF INFORMATION/PRIVACY ACT (5 USC 552a(g)(1))

II

EXHAUSTION OF ADMINISTRATIVE REMEDIES

C-002 THE PETITIONER (HEREAFTER PLEADS) HAS EXHAUSTED ADMINISTRATIVE REMEDIES

24,333 (THE ACTS AND MANNER AND METHODS) 26,751 (CONTINUOUS PLEADING).

III

PARTIES

PETITIONER:

C-003 THE PETITIONER IN THIS ACTION IS COY. PLEADS 78872-011 AND HAS
A MAILING ADDRESS OF FMC-DEVENS, 42 PATTEN ROAD, P.O. BOX 879,
AYER, MASSACHUSETTS, 01432,

RESPONDENTS:

C-004 ALL OF THE RESPONDENTS ARE SUED IN THEIR PERSONAL AND INDIVIDUAL
CAPACITIES;

C-005 RESPONDENTS DAVID WILSON, MIKE BOLLINGER, JAMES DOW, S. HAROLD K. LEONARD,
J. FLETCHER, B. PETRICHETTO, J. DAVIS, W. BLAZIN, AND J. SANCHEZ ARE EMPLOYED AT
THE U.S. BUREAU OF PRISONS AND WORK AT THE FEDERAL MEDICAL CENTER (FMC)
AT DEVENS, MASSACHUSETTS AND HAVE A BUSINESS MAILING ADDRESS OF 42
PATTEN ROAD, P.O. BOX 880, AYER, MASSACHUSETTS, 01432.

C-006 RESPONDENT S. THOMPSON IS EMPLOYED BY THE U.S. PUBLIC HEALTH SERVICE
AND ASSIGNED TO DUTY IN THE U.S. BUREAU OF PRISONS AND WORKS AT FMC-
DEVENS AND HAS A MAILING ADDRESS OF 42 PATTEN ROAD, P.O. BOX 880,
AYER, MASSACHUSETTS, 01432.

IV

STATEMENT OF THE ISSUES

C-007 1. IS PHELPS LAWFULLY UNDER THE JURISDICTION OF 18 USC 4243?

C-008 2. DID THE U.S. ATTORNEY GENERAL MISAPPLY THE FEDERAL MENTAL HEALTH LAWS?

C-009 3. DOES THE U.S. BUREAU OF PRISONS HAVE LEGAL CUSTODY OF PHELPS OR ANY OTHER INMATE COMMITTED UNDER 18 USC 4243 (INSANITY ACQUITTAL) OR 18 USC 4246 (CIVIL CIVIL COMMITMENTS)?

C-010 4. DID THE U.S. ATTORNEY GENERAL VIOLATE SECTION (i) OF 18 USC 4247 BY PLACING PHELPS IN FEDERAL CONFINEMENT INSTEAD OF STATE, LOCAL, OR PRIVATE CONFINEMENT?

C-011 5. DID THE EMPLOYEES AND MEMBERS OF THE U.S. BUREAU OF PRISONS ACT IN CLEAR ABSURD OF ALL LAWFUL JURISDICTION AND AUTHORITY?

C-012 6. CAN A UNCONVICTED CIVIL MENTAL PATIENT (PHELPS) LAWFULLY SUFFER THE SAME ENVIRONMENT, ATMOSPHERE, CONDITIONS, DISCIPLINES, PUNITIVE ACTS, CARE, AND TREATMENT AS CONVICTED AND SENTENCED CRIMINAL PRISONERS WITHOUT VIOLATING FEDERAL LAW, THE U.S. CONSTITUTION, AND U.S. v. JONES, 1983, 463 U.S. 354?

C-013 7. ARE THE EMPLOYEES OF THE U.S. PUBLIC HEALTH SERVICE, OR THE EMPLOYEES OF THE U.S. BUREAU OF PRISONS RESPONSIBLE FOR THE DAY-TO-DAY DIRECT CARE AND TREATMENT OF CIVIL INMATES COMMITTED UNDER 18 USC 4243 OR 18 USC 4246 (SUCH AS 18 USC 4242, 18 USC 4247(c), AND 28 CFR 0.95-0.96)?

C-014 8. HAVE THE RESPONDENTS COMPLIED WITH THE TERMS OF 18 USC 4243 AND 18 USC 4247(2) AND (i)?

C-015 9. CAN U.S. BUREAU OF PRISON RULES AND REGULATIONS ESTABLISHED FOR CONVICTED PRISONERS BE LAWFULLY APPLIED TO UNCONVICTED CIVIL MENTAL PATIENTS?

C-016 10. DID THE B.O.P. STAFF, EMPLOYEES, AND MEMBERS SUPERVISE, DENY, AND VIOLATE THE CONSTITUTIONAL, STATUTORY, CIVIL, AND COMMON LAW GUARANTEED FREEDOMS, LIBERTIES, RIGHTS, PRIVILEGES, IMMUNITIES, PROTECTIONS, AND SAFEGUARDS OF PHELPS?

C-017 11. HOW TO BOP STAFF USE PROFESSIONAL JUDGMENT AS REQUIRED BY YOUNGBLOOD & HORN, 1982, 457 U.S. 567?

C-018 DID PHELPS SUFFER irreparable physical, mental, emotional, spiritual, AND LEGAL LOSS, HARM, INJURY, AGONIA, PAIN, AND SUFFERING BECAUSE OF THE ACTS, ACTIONS, INACTION, AND OMISSIONS OF THE U.S. ATTORNEY GENERAL AND THE BOP STAFF AND EMPLOYEES?

II

BACKGROUND

C-019 DURING THE CULTURAL, SOCIAL, AND RACIAL UPHEAVAL AND REVOLUTION OF THE 1960's, 1970's, AND 1980's, PHELPS WAS CONVERTED TO THE NAZI RELIGION AND INCORPORATED A CHURCH IN THE STATE OF CALIFORNIA AND BEGAN TEACHING THE TENETS AND BELIEFS OF HIS RELIGION AS PRESENTED IN THE SCRIPTURES OF THE CHRISTIAN HOLY BIBLE. HE PROSELYTIZED RACIAL PURITY AND RACIAL SEGREGATION AS WELL AS WHITE SUPREMACY AS THE FUNDAMENTAL COMMANDMENTS OF GOD. HE IDENTIFIED (AS DID JESUS) THE JEWS AS BEING DEVILS FROM HELL AND ALL NON WHITES AS BEING THE RESULTS OF MIMBREEDING OF SATAN WITH THE MONKEY KINGDOM AND EVOLUTONIZING BY GEOGRAPHIC ADAPTATION. HE RECEIVED HUNDREDS OF DEATH THREATS FROM JEWS AND OTHERS AND SUFFERED ASSAULTS AND PROPERTY LOSS, BECAUSE OF HIS SINCERELY HELD SHARED RELIGIOUS BELIEFS.

C-020 IN 1989 PHELPS WAS ARRESTED ON CHARGES OF BOMBING JEW SYNAHEES, THE HOMES OF JEW RABBIS, AND SCHOOLS THAT TAUGHT BLACK SUPREMACY.

C-021 PHELPS CLAIMED TO BE INNOCENT AND THAT HE WAS BEING FRAMED IN A INTERNATIONAL JEW CONSPIRACY. EVERYONE BELIEVED THIS TO BE A DELUSION THAT QUALIFIED PHELPS FOR A INSANITY PLEA.

C-022 IN JUNE OF 1986 PHELPS WAS FOUND NOT GUILTY BY REASON OF INSANITY (NGI)

... AND WAS COMMITTED TO THE CUSTODY OF THE U.S. ATTORNEY GENERAL PURSUANT
... TO 18 USC 4243(e) WHICH, IN TURN, PLACED PHELPS IN THE CUSTODY OF THE
... DIRECTOR OF THE U.S. BUREAU OF PRISONS WHICH, IN TURN, DELEGATED HIS AUTHORITY
... TO VARIOUS WARDENS OF VARIOUS PRISONS IN THE FEDERAL SYSTEM.

C-023 PHELPS WAS CLOTHED IN HIS INTERNATIONAL CONSPIRACY CLAIM AND THIS
... "DELUSION" KEPT HIM INCARCERATED.

C-024 THEN, SEVEN YEARS AFTER HIS INCARCERATION, BECKIN, THE DISTRICT ATTORNEY
... OF SAN FRANCISCO, CALIFORNIA RAIDED THE OFFICES OF A JEW ORGANIZATION
... (ANTI-DEFAMATION LEAGUE OF BRIAN BIRCH) AND SEIZED ALL RECORDS AND DOCUMENTS.
... IN THE SEIZED RECORDS WAS A Dossier ON PHELPS THAT SHOWED PHELPS
... WAS ACTUALLY INNOCENT OF THE CRIMES. AND THAT HIS CLAIM OF BEING
... FRAMED IN A INTERNATIONAL CONSPIRACY WAS ACTUALLY TRUE AND WAS NEVER
... A DELUSION AT ALL.

C-025 THE DISTRICT ATTORNEY NOTIFIED THE DEPARTMENT OF JUSTICE (DOJ) AND THE
... U.S. BUREAU OF PRISONS OF THE DISCLOSED EVIDENCE.

C-026 NEITHER THE DOJ OR THE BOP MADE ANY EFFORT TO EFFECT THE RELEASE OF
... PHELPS BECAUSE THEY CONSIDERED THE RELIGIOUS TEACHINGS OF PHELPS TO BE
... POSITIONALLY INCORRECT AND DANGEROUS.

C-027 PHELPS MADE REPEATED ATTEMPTS TO FIND RELIEF FROM THE COURTS, BUT
... EVERY TIME THE COURT WAS READY TO RULE ON THE ISSUE, THE BOP WOULD
... TRANSFER PHELPS TO ANOTHER JUDICIAL CIRCUIT AND THEN ROSIT INTO
... COURT WITH A MOTION TO DISMISS ON THE GROUNDS OF MOOTNESS. AFTER THE
... THIRD TIME, THE 5TH CIRCUIT SAID "WE NOTE THAT PHELPS HAS BEEN TRANSFERRED
... TWICE BEFORE TO MOOT THIS ISSUE. WE HOPE THIS IS NOT A PATTERN." (PHELPS
... V. U.S. FEDERAL GOVERNMENT, SC1994, 15 F3d 735.) TIME HAS MADE NO DIFFERENCE.

C-028 PHILIPS HAS BEEN TRANSFERRED REPEATEDLY TO MOVE THE ISSUE OF FALSE IMPRISONMENT (RECENTLY CONCERNED) AND THE GOVERNMENT DENIED IN A PUBLISHED OPINION IN THE DISTRICT OF COLUMBIA A BELL PROGRAMMER (DR. JOHN ELLIOT) AND A BELL PHYSICIANS (DR. MICHAEL HALEWAQ) REPORTED TO THE COURT THAT THEY HAD BEEN (WHO WORKED) THE EVIDENCE THAT PHILIPS WAS ACTUALLY INACCURATE AND THAT HE WOULD BEAR WITNESS TO THE ONE AND PROUD AND (4), THEREFORE, IN FACT, PHILIPS WAS PERTINENT TO FMC-BELLS' LIESHE AND IS RECENT.

FACTS

C-029 1. PHILIPS IS NOT UNDER THE JURISDICTION OF 18 USC 4243:

(A) THE STATUTE REQUIRES A CRIME - A VIOLATION OF A CRIMINAL LAW;

(B) THE GOVERNMENT HAS AUTHORITY ADMITTED (IN OPEN COURT) THAT PHILIPS

(A) DID NOT COMMIT A CRIME,

(B) DID NOT VIOLATE ANY LAW,

(C) DID NOT VIOLATE ANY KIND OF PROBATION OR RELEASE CONDITION,

(D) DID NOT VIOLATE ANY KIND OF COURT ORDER,

(E) DID NOT CONSPIRE WITH ANYONE TO COMMIT A CRIME,

(F) DID NOT ASSOCIATE WITH ANYONE ENGAGED IN CRIMINAL ACTIVITY.

(B) THE GOVERNMENT KNOWS THAT PHILIPS CANNOT LEGITIMATELY BE SUBJECT TO 4243

(C) 18 USC 4001(c) STATES THAT NO CITIZEN WILL BE DEPRIVED, OR PUNISHED, UNLESS HE HAS VIOLATED A LAW;

(SINCE 4243 REQUIRES A CRIME AND PHILIPS DID NOT COMMIT A CRIME, HE IS NOT UNDER THE JURISDICTION OF THE STATUTE AND THE PROVISIONS AND TERMS OF THE STATUTE DOES NOT APPLY TO HIM.)

(D) THE STATUTE MAKES THE U.S. ATTORNEY GENERAL THE ONE RESPONSIBLE TO OVERSEE THE OPERATION OF THE PROVISIONS OF THE STATUTE;

C-030 I. THE FEDERAL GOVERNMENT DOES NOT HAVE A FEDERAL CIVIL HOSPITAL IN ACCORDANCE WITH THE FEDERAL INSANITY ADQUITES, AS THE STATUTE REQUIRES, BUT IT DESPERATELY NEEDS ONE (FOUCHER V LOUISIANA, 1964, 504 U.S. 71; MAGGIE MAE V CECILIE, W.D.Mo. 1969, 305 F.Supp. 775; JONES V HARRIS, SC 1964, 339 F.2d 555) SEE DAVIS V RUMFORD, 10 Cir. 1964, 264 F.2d 864 (10)

(A) THE COURT HAS CONTINUALLY HOLD THAT THE FEDERAL MEDICAL CENTERS IN THE U.S. BUREAU OF PRISON SYSTEM ARE PRISONS, NOT HOSPITALS, AND THOSE CONFINED THEREIN SUFFER INCARCERATION, NOT HOSPITALIZATION (WILLIAMS V RICHARDSON, 3-1973, 481 F.2d 358, US V HINCKLEY, D.C. 1971, 525 F.2d 616) REGARDLESS OF THE LABEL (VAN SICKLES V CECILIE, SC 1971, 437 F.2d 834) BECAUSE, REGARDLESS OF THE NAME (MEDICAL CENTER), IT OPERATES, FUNCTIONS, AND IS ADMINISTERED AS A PRISON BY BOP STAFF TRAINED IN PENALOGY (RAWLES V US, SC 1964, 331 F.2d 21) WHICH A FACILITY LOCKS PEOPLE IN CELLS, RESTRICT PRIVILEGES, DISCIPLINE AND PUNISH PEOPLE FOR VIOLATIONS OF RIDICULOUS ENFORCED RULES, REQUIRES OBSTINACY AND SUBMISSION TO AUTHORITY, AND RESIDENTS ACTIVITIES BEMIND WITH CIVIL SECURITY FONDS, THEN THE FACILITY IS A PRISON - NOT A HOSPITAL (COVINGTON V HARRIS, DCA 1969, 419 F.2d 417). IF THE FACILITY IS ADMINISTERED BY THE U.S. ATTORNEY GENERAL AND NOT THE SECRETARY OF THE DEPTHS, THEN IT IS A PRISON - NOT A HOSPITAL (FROST V CECILIE, W.D.Mo. 1970, 315 F.Supp. 899)

(B) EVEN IF THE FEDERAL GOVERNMENT CONSTRUCTED A PHYSICAL BUILDING AND PUT A SIGN ON IT READING "CIVIL HOSPITAL", THE GOVERNMENT STILL COULD NOT CONFINING PEOPLE IN IT, BECAUSE THERE ARE NO PROVISIONS IN THE LAWS THAT ALLOWS FOR FEDERAL CONFINEMENT.

(C) FIRST, CONGRESS MUST MODIFY THE STATUTE TO INCLUDE FEDERAL CONFINEMENT, THEN IT MUST CONSTRUCT A PHYSICAL CIVIL HOSPITAL, AND THEN STAFF IT WITH NON-BUREAU OF PRISON EMPLOYEES - TO MEET THE REQUIREMENTS OF 18 USC 4243, 4247, AND SUPREME COURT LAW

C-031 3. THE U.S. ATTORNEY GENERAL ABUSED HIS DISCRETION, MADE ILLEGITIMATE BRANCHES' INTERPRETATIONS AND CONCLUSIONS OF LAW AND FACT, AND MISAPPLIED THE FEDERAL MENTAL HEALTH LAWS!

(A) UNDER SUBSECTION (E) OF 18 USC 4243, THE ATTORNEY GENERAL HAS ONLY 3 OPTIONS:

- (1) RELEASE THE INDIVIDUAL REQUIRED TO THE COMMUNITY UNCONDITIONALLY
- (2) CAUSE AN APPROPRIATE STATE OFFICIAL TO ASSUME RESPONSIBILITY OF THE INDIVIDUAL
- (3) UNDER 18 USC 4247(i) THE ATTORNEY GENERAL MAY PURCHASE STATE COURT FOR A STATE CIVIL COMMITMENT INTO A STATE MENTAL HOSPITAL PURSUANT TO STATE LAW

(3) DETERMING ("HOSPITALIZE") THE INDIVIDUAL REQUIRED TO A "SUITABLE" FACILITY DEPENDING UPON THE INDIVIDUAL CHARACTER OF THE PERSON AND THE NATURE OF THE CRIME (18 USC 4247(c))

(B) IF THE ATTORNEY GENERAL CHOOSES TO "HOSPITALIZE" THE INDIVIDUAL, HE MUST —

- (1) PUT PITCHER IN THE CUSTODY OF THE SECRETARY OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES (DHHS)
- (2) IT IS THE SECRETARY WHO IMPLEMENTS THE PROVISIONS OF THE FEDERAL MENTAL HEALTH LAWS (18 USC 4247(i)(D))
- (3) THE ATTORNEY GENERAL MISAPPLIED THE LAW AND PUT PITCHER IN THE CUSTODY OF THE DIRECTOR OF THE U.S. BUREAU OF PRISONS AS IF PITCHER WAS A CONVICTED PRISONER WHO HAD BEEN FOUND GUILTY AND SENTENCED TO A TERM OF PUNISHMENT

(2) HE MUST MAKE SURE THE FACILITY HAS BEEN APPROVED AND CONTRACTED BY THE SECRETARY OF THE DHHS AS BEING A HOSPITAL;

(A) THE SECRETARY HAS NEVER APPROVED ANY B.C.P. FACILITY, WHY?
BECAUSE IT WOULD BE ILLEGITIMATE. ALL THE B.C.P. FACILITIES ARE CONSTRUCTED UNDER PUBLIC LAW AS PRISONS AND ARE ACCREDITED AS PRISONS. THEY CAN'T BE BOTH HOSPITALS AND PRISONS AND CANNOT ONLY AS A PRISON.

(3) HE MUST MAKE SURE THE FACILITY HAS A REHABILITATION PROGRAM THAT MEETS THE STANDARDS OF 18 USC 4247(a) AND WHICH HAS BEEN APPROVED BY THE SECRETARY OF THE DEPTHS (18 USC 4247(i)(c))

(4) NONE OF THE BOP FACILITIES MEET THE REHABILITATION STANDARDS, AND NO REHABILITATION PROGRAM HAS EVER BEEN APPROVED BY THE SECRETARY OF THE DEPTHS

(5) IF THE STATE COURT WILL NOT COMMIT THE ACQUITTEE TO A STATE MENTAL HOSPITAL PURSUANT TO STATE LAW, THEN THE ATTORNEY GENERAL HAS ONLY 3 OTHER OPTIONS IF HE STILL WISHES TO "HOSPITALIZE" THE ACQUITTEE. HE CAN —

- (1) ENTER INTO A CONTRACT WITH A STATE (OR POLITICAL SUB-DIVISION)
- (2) NOTE THAT THE ATTORNEY GENERAL CAN STILL HOSPITALIZE PHILIPS IN A STATE MENTAL HOSPITAL BY CONTRACT - BUT NOW HE IS PAYING THE BILLS
- (3) ENTER INTO A CONTRACT WITH A PRIVATE AGENCY

(18 USC 4247(i)(3)) THESE ARE HIS ONLY OPTIONS

C-032 THERE ARE NO OPTIONS - NO PROVISION - FOR FEDERAL CONFINEMENT

C-033 ~~As~~ THE U. S. BUREAU OF PRISONS DOES NOT HAVE LAWFUL CUSTODY OF PHILIPS;

- (A) THERE ARE NO PROVISIONS IN 18 USC 4243 OR 18 USC 4247 FOR FEDERAL CONFINEMENT
- (B) THE U. S. ATTORNEY GENERAL IS REQUIRED TO PUT PHILIPS IN THE CUSTODY OF THE SECRETARY OF THE DEPTHS - NOT THE U. S. BUREAU OF PRISONS
- (C) UNDER 18 USC 4042 (AND 28 CFR 0.93-0.96) THE B. P. ONLY HAS AUTHORITY OVER PENAL AND CORRECTIONAL INSTITUTIONS (NOT HOSPITALS)
- (D) 18 USC 4243 REQUIRES PHILIPS TO BE "HOSPITALIZED."

(b) 18 USC 4042 (and 28 CFR 0.95 - 0.96) GIVES THE BUREAU OF PRISONS AUTHORITY ONLY OVER THOSE CHARGED WITH CRIMES AND THOSE CONVICTED OF CRIMES (NOT CIVIL COMMITMENTS / INSANITY ACQUITTEES);

(i) THERE ARE NO PROVISIONS IN THE FEDERAL MENTAL HEALTH LAWS THAT

ALLOWS, OR AUTHORIZES, FEDERAL CONFINEMENT FOR INSANITY ACQUITTEES;

(A) NO FEDERAL AGENCY CAN ENACT A RULE OR REGULATION GIVING ITSELF THAT AUTHORITY;

(B) EVEN CONGRESS CANNOT MAKE A FEDERAL REGULATION WITHOUT A STATUTE AUTHORIZING THAT REGULATION; *

(C) THE BUREAU OF PRISONS HAS SEVERAL RULES AND REGULATIONS ESTABLISHED WITHOUT STATUTORY AUTHORITY;

(D) SOME CURRENT RULES AND REGULATIONS WERE ESTABLISHED ON STATUTORY AUTHORITY WHICH HAS BEEN REPEALED OR ABRODGED;

(D) 28 CFR 551.101(e)(2) AND BUREAU OF PRISON POLICY 7331.64 ALLOWING A CIVIL COMMITMENT / INSANITY ACQUITTEE TO BE TREATED AS A CONVICTED AND SENTENCED PRISONER CLOUTERS THE PURPOSE AND INTENT OF 18 USC 4243 AND 4246 AND VICTIMS U.S. v. SONES, 1983, 463 U.S. 557 n. 369 (INSANITY ACQUITTEES CANNOT BE TREATED AS CONVICTED PRISONERS) SEE U.S. v. SAIN, 7199, 174 F.3d 852 (PRINCIPLES OF CRIMINAL SENTENCING DO NOT APPLY TO INSANITY ACQUITTEES)

* EVEN THE COURTS CANNOT ACT WITHOUT STATUTORY AUTHORITY (U.S. v. SOTENO, 761916, 94 F.3d 1037 AT 1040)

C-034 **5** ALL OF THE STAFF, EMPLOYEES, PERSONNEL, AND MEMBERS (FULL TIME, PART TIME, CONSULTS, VOLUNTEERS, AND CONTRACTED WORKERS) OF THE U.S. BUREAU OF PRISONS ARE IN CLEAR ABSENCE OF ALL LAWFUL JURISDICTION AND AUTHORITY IN THE CUSTODY, CONFINEMENT, CARE, AND TREATMENT OF (AND PROVIDING SERVICES FOR) INSANITY ACQUITTEES AND OTHER CIVIL COMMITMENTS (18 USC 4243 AND 18 USC 4246)

(A) THERE ARE NO PROVISIONS IN THE FEDERAL MENTAL HEALTH LAWS ALLOWING, OR AUTHORIZING, FEDERAL CONFINEMENT:

(i) WHEN A STATUTE IS SILENT ON A ISSUE, OR HAS NO PROVISION, THERE IS A CORRESPONDING LACK OF AUTHORITY (KOENIG V. US, 1993, 508 US 200, ISFP V. RESCUER, 1994, 511 US 531)

(ii) SINCE 18 USC 4243 AND 18 USC 4247 DOES NOT AUTHORIZE THE B.O.P TO HAVE GUARDS OR PHLEPS, THE EMPLOYEES OF THE B.O.P HAVE NO LAWFUL AUTHORITY OVER PHLEPS. THEY CANNOT DO ANYTHING TO PHLEPS OR FOR PHLEPS WITHOUT VIOLATING HIS RIGHTS

(B) THE BOP MEMBERS KNOW (AND UNDERSTAND) THE LEGAL DIFFERENCE BETWEEN A CIVIL COMMITMENT AND A CRIMINAL SENTENCE, AND THE LEGAL DIFFERENCE BETWEEN A UNCONVICTED CIVIL PATIENT AND A CONVICTED CRIMINAL PRISONER BUT REFUSE TO TREAT THEM DIFFERENTLY

(i) THE BOP TREATS A UNCONVICTED CIVIL PATIENT AS A CONVICTED AND SENTENCED PRISONER BY RULES AND REGULATIONS, BUT IN CUSTOM AND PRACTICE, THE UNCONVICTED CIVIL MENTAL PATIENT IS TREATED FAR WORSE THAN SENTENCED PRISONERS AND WITH GREATER DISPARITY AND INTOLERANCE.

(ii) EACH TIME A GROUP OF PEOPLE VISITS THE FACILITIES TO INSPECT CARE COMPROMISES AND CONDITIONS, THE MENTAL HEALTH UNITS AND PATIENTS ARE AVOIDED

(iii) ON EXERCISES WITH A MENTAL PATIENT DOES CORROBORATE THIS POSITION FOR CORRECTING (CORRECTIVE THERAPY)

C-035 *for* THE COURTS ADMIT TO A DISTINCTION BETWEEN CIVIL COMMITMENTS AND CRIMINAL SENTENCES,
AND BETWEEN UNCONVICTED AND CONVICTED, AND BETWEEN A UNCONVICTED CIVIL PATIENT AND
A CONVICTED CRIMINAL PRISONER:

- (A) PACE V. MARSH, 961 F.2d, 121, 116 AFTR2d 1146 (PLAINTIFF LITERALLY ALLEGED HE DID NOT WANT
TO CIVIL COMMITMENT) KRUG V. CIRCUIT BOARD, D.MASS 1991, 53 F.Supp.2d 117 AFTR2d (SAME)
- (B) GRANDE V. COOPER, D.C.1993, 667 F.Supp.1186 (THE COURT HAS CONSIDERED THAT A CIVIL COMMITMENT
IS THE SAME AS A CRIMINAL SENTENCE OR THAT A HOSPITALIZATION IS THE SAME AS
INCARCERATION) ALBRIGHT V. SHAW, 101974, 975 F.2d 543 (SAME)
- (C) COLE V. HILLARD, D.C.1976, 411 F.Supp.705 (THE BASIS FOR INCARCERATION IS TO PROTECT THE PUBLIC -
THE BASIS FOR A CIVIL COMMITMENT IS TO TREAT THE ILL)
- (D) U.S. V. JAMES, 701999, 174 F.3d 874 (THE PRINCIPLES OF CRIMINAL SENTENCING DOES NOT APPLY
TO INSANITY ACQUITTEES)
- (E) U.S. V. JOHNS, 1983, 463 U.S. 554 (INSANITY ACQUITTEES CANNOT BE TREATED AS CONVICTED PRISONERS)
- (F) JENNINGS V. KIRK'S MENTAL INSTITUTION, SDNY 1992, 146 F.Supp.3d 6 (CRIMINAL CONVICTION IS NOT THE SAME
AS A CIVIL COMMITMENT) WATKINS V. HARVEY, D.C.1979, 472 F.Supp.1061 (SAME)
- (G) SCOTT V. MARTIN 1985, 467 U.S. 253 (CONFIRMING THE MENTALITY THE INMATE CIVIL COMMITMENT IS
IMPERMISSIBLE) BRIGGREN V. TULLIS, 1960, 364 U.S. 479 (SAME); FRONET V. SCHWARTZMAN, MD.1983,
177, 428 F.Supp.1351 (SAME); LYNCH V. BROWN, MD.1983, 336 F.Supp.315 AFTR 651 P.Ld
537, 744 F.2d 1453 (SAME); CAMERON V. TOME, D.MASS 1992, 753 F.Supp.1511 (SAME);
DAVIS V. BROWN, D.C.1978, 461 F.Supp.842, PLUMMER V. HARRISON, 1984, 451 U.S. 1 (SAME)
BUT THE COURTS (IN THIS CASE) HAVE TREATED PHILIPS AS A CRIMINAL, CONVICTED
PRISONER UNDER A SENTENCE OF CRIMINAL PUNISHMENT.
- (H) THE COURT SENT PHILIPS TO PRISON INSTEAD OF SENDING HIM TO A HOSPITAL AS REQUIRED BY LAW
- (I) THE COURT SENT PHILIPS TO CRIMINAL PROSECUTION CONDITIONS INSTEAD OF PSYCHIATRIC CONDITIONS
- (J) THE COURT HAD PHILIPS SUPERVISED BY A CRIMINAL PROSECUTION OFFICER (WHO WAS UNQUALIFIED)
BY HAVING THE KEEPTER, SKILLS OR EXPERIENCE IN MENTAL HEALTH
- (K) ITEM (H) IS ALSO ARRESTED ON A BURGLAR WARRANT SIMPLY BECAUSE SHE DISAGREED WITH THE
SIGNATURE OF PHILIPS

(E) 18 USC §603(q)(A) is unconstitutional because it conflicts with the Federal Mental Health Laws (see US v. MUSKETE, 6178, 451 F.2d 529) and it conflicts with the statute and intent of the Mental Health Laws (see US v. ABUSADER, 51985, 761 F.2d 854)

C-036 7. 18 USC 4031 and 18 USC 4247(c) requires "individualized" care and treatment according to the character of the individual. The BOP has a Policy of treating all mental patients alike.

(in 20 years of incarceration, patients have fewer than "individualized" care and treatment).

42 USC 10341 is for MENTAL PATIENTS with Rights

SOC LIBERTY RIGHTS, NO. 1912, 491 F.2d 552 (INDIVIDUALIZED TREATMENT REQUIRED) BUT NO V
NOV. 1987, 813 F.2d 106 (same), CANTERBURY v. WILSON, 1982, 546 F. Supp. 174 (same
 continue therapy presumption), PROCTER & GAMBLE, 813 F.2d 551, 132 F. Supp. 2d 2 (most BOP individuals
 in the least restrictive and least restrictive setting) THE BOP IS THE OPPOSITE - THE POLE OPPOSITE
 PATIENTS IN THE MOST RESTRICTIVE SETTING - AUTOMATICALLY. SEE ALSO WYATT V. ANDERSON, 504 F.2d 1305,
WYATT V. STICKNEY, NO. 1912, 344 F. Supp. 373, 344 F. Supp. 387, 344 F. Supp. 391,
US v. FALCETT, 491 F.2d 352; YODER v. WILSON AT 3.59 IN 25 (different patients have
 different liberty interests and require different levels of treatment) SEE PLUNKET V. KELVIN, 113
 464 F. Supp. 1131, 476 F. Supp. 1259, 653 F.2d 316; TRAP v. DUEES, 1953, 306 U.S. 54 (defining something
 a "TREATMENT" does not ipso facto make it a treatment and not a punishment) "CORRECTIVE LIBERTY"
 FOR THE MENTALITY (IN THE BOP, IS THE SAME AS DISPLACING SOLICITATION WITH THE DOORS).

SEE LAURENCE V. REEDER, 1971, 333 F. Supp. 621, 557 F. Supp. 1212, 557 F. Supp. 1302; MONTEY v. W
 1794-23, 1976, 427 U.S. 215 (TREATMENT OBLIGE BUT NOT ON C.P. POSITION)

C-037 8. THE BOP EMPLOYES VIOLATE THE "ALL WITHIN" principle of 18 USC 4243(f). THE BOP MUST
 MAKE "ALL" REASONABLE EFFORTS TO OBTAIN THE STATE TO ASSUME RESPONSIBILITY. THE BOP
 MAKES ONE ATTEMPT PER YEAR. "WHEN" THE PATIENT IS NO LONGER MURKAY, i.e., THE DISEASE
 MUST IMMEDIATELY NOTIFY THE COUNTS. THE PATIENTS until THE ANNUAL REPORT IS DUE

C-038 9. EVEN THOUGH THE INSURANCE ACTUARIAL HAS BEEN USED APPROPRIATELY FOR THE CRIMES, THE BOP
 ALWAYS (INC. AFTER HOW MANY YEARS PASS) USE THE CRIME TO KEEP A PERSON INCARCERATED,
 THAT IS, THE DIRECTOR, THE JUDGE, AND INSURANCE COMPANY OF CRIMES THAT
 SUBSTANTIALLY PREDICTED THE PERSON WILL NEVER BE RELEASED (LEVITAN v. FORDMEN, 461 U.S.
 1961 (1983) SEE COHEN v. HARRIS, 1964, 419 F2d 617 (WHERE CRIME IS TIME RELATED THE CRIME MUST
 BE PREDICTED WITH CERTAINITY & RELEASE) MILLARD v. HARRIS, 1968, 406 F2d 444 (THE GREATER THE
 DISTANCE IN TIME BETWEEN THE CRIME AND THE EVALUATION, THE LESS THE CRIME IS USED)
COHEN v. DUNNEDRIDGE, 1968, 434 F2d 117, 413 F2d 523, 422 U.S. 543 (25 years evaluated)
 EACH CRIME PERSON IS INTERVIEWED, THE CRIME IS APPRAISED EVEN THOUGH THE GOVERNMENT AND THE
 PERSON DID NOT COMMIT A CRIME.

C-039 10. THE DOCTORS DO NOT USE THE "CRIME SURVEY" APPROXIMATE TO MARKING A PERSON (SEE COHEN v.
 KROSKY, 461 U.S. 25, 25 F3d 414) BUT RATHER SIMPLY USE "THE RECORD" (DISEASES CRIMES BY
 PREVIOUS DECades IN YEARS PAST)

(A) WITH PERSON'S ATTACHED AT FMC-DOUGLAS, THE DOCTORS DISREGARD PERSON'S "PREDICTED
 CRIMINAL RECORD" THE MORALLY REASURANT STAMPED THE DOCTORS USE THE 1985 TRAIL DECIDES
 FROM THE RECORD. THIS IS PLAIN SILLY BECAUSE THE TRAIL DECIDES MORE OF DISEASES
 ON PERSON'S RECORD OF BEING PARTIED IN A INTERNATIONAL JEW CONSPIRACY. BUT IN 1972
 THAT CURE WAS POSSIBLE TO BE FREE - SO THE TRAIL DOCTORS DISEASES WERE EXCLUDED
 FOR BOP DECIDES ALTHOUGH KROSKY STAMP THAT DISEASES WITHOUT MARKING MAY
 INFLUENCE EVALUATION WITHOUT THE RECORD

C-040 11. THE BOP STAFF FLAGRANTLY VIOLATE THEIR OWN RULES THAT STAMPS "DISEASES". SEE
 PETITION OF STATE POLICE, 1985, 487 Ahd 163 (EMPLOYEES MUST FOLLOW AGENCY RULES) ALVAN v.
 CO., 1981, 578 Ahd 225 (DEPARTMENT RULED BY RULES OF AGENCY) GRANDELL v. CO., 113 U.S. 315,
 335 F2d 1284

C-041 Policy statement 6000-054 determines the care and treatment of mental patients and 28 CFR 541 determines discipline of convicted prisoners. The BOP houses civil patients as convicted prisoners are punished without any regard to their mental status (see Lumumba v. Rapone, 1971, 333 F.Supp. 621, 354 F.Supp. 1212, 359 F.Supp. 1302 (rules must be those of a medical institution for a patient) Tyler v. Glick, 404 F.2d 654 (5th Cir.))

C-042 The employees of the BOP observe the rules concerning Federal Employees' Conduct and Responsibilities (BOP Policy 300-03 and 31,10,6)

C-043

- (a) For example all employees must display name identification tags on their clothing and must reveal their names to inmates upon request.
- (b) Employees do not wear name plates but when they do, they conceal it so inmates cannot see the name
- (c) Employees often refuse to disclose their names or consistently use LAST NAME (i.e. initial or anything else; they don't want inmates to complain to the court about officer "smash" even though "smash" & "smash" are now well known reveals a first name or identity.)

C-044

- (a) Employees are exempt from absconding or disappearing inmates (especially the mentally ill) but employees disregard the Federal Employees' Conduct rules.
- (b) Employees abuse the mentally ill frequently because the mentally ill never complain they are so ill they don't know their rights are being violated or they think they must have done something to deserve the abuse but don't know why. Employees make a lot of money off this condition so don't feel any frustration when patients are complaints, the complaint is viewed as a product of the mental illness rather than a legitimate complaint.

72 USC 10843
There is no absolute for the mentally ill as required by 42 USC 10841.

C-045

- (a) The employees do not exercise professional judgment (Shaw v. Starkhouse; 1976, 416 F.2d 1135; Wolinger v. Remond, 1981, 457 U.S. 327)

C-046 THE BOP STAFF ARE NOT TRAINED IN THE CARE AND TREATMENT OF THE MENTALLY ILL. THEY ARE TRAINED ONLY IN SECURITY AND ANY MENTAL HEALTH SKILLS OR KNOWLEDGE ARE FURNISHED UPON BY THE B.C.P. OFFICER, DOCTORS, NURSES, NURSE INSTRUCT WITH MENTAL PATIENTS EXCEPT AT A FIXED SCHEDULED APPOINTMENT. THE STAFF LOOK THemselves IN THE OFFICE, PUTY CARDS, WATCH TV OR THE INTERNET, PUTY LODGE CARDS, SODA/CAKE, ETC B.C.P. NEVER TALK TO INMATES - NEVER INSTRUCT WITH INMATES - IT IS A BOP POLICY.

C-047

- THEY SEEZ PROPERTY OF INMATES WITHOUT GIVE & RECEIPT (IN VIOLATION OF LAW)
- THEY MAKE UP THEIR OWN RULES OR AT LEAST ONE ON THEIR OWN NEEDS
- THEY VIEW MENTAL PATIENTS AS SUB-SERVANTS AND COMMUNICATE THIS ATTITUDE
- THEY MAKE FALSE REPORTS AND ACCUSATIONS AGAINST INMATES
- THEY ANTICIPATE, COERC, AND THREATEN MENTAL PATIENTS
- THEY DISMISSE AGAINST MENTAL PATIENTS WITH VIOLENCE/THREATS (BY THE ATTITUDE OF SUPERVISORY STAFF)
- THEY ENERG ABSOLUTE CONTROL AND DEMAND INSTANT OBEDIENCE AND SUBMISSION OF ALL MENTAL PATIENTS. NO PATIENT CAN EXPRESS INDIVIDUALISM OR AUTONOMY.
- THERE ARE NO DIVERSE ACTIVITIES FOR MENTAL PATIENTS - NO (AND) NO LEISURE - EXERCISE IS 1 HOUR PER WEEK - IF THE "THERAPIST" IS AUTHORIZED. THERE ARE 3 THERAPISTS SPENDING ON 3 DIFFERENT CHANNELS (BUT RULES REQUIRE THERAPIST NOT TO HAVE SPACES TO MOVE POWER AND QUIET) (PITCING THE BOP TO THE INMATES)
- ABSOLUTE CONTROL IS LEFT TO THE INMATES TO OBTAIN AND "PICKING GUARD"
- INMATES ARE WARDROBED - NO PHYSICAL THERAPY

C-048

- NO MATTER WHAT MENTAL STATUS (OR THE CRIME) OF INMATES NOT SENT TO DEPART FOR MENTAL PATIENTS - THEY GO DIRECTLY TO OPEN POPULATION. BUT FOR INMATES WHO HAVE THE MENTAL LABEL, THEY GO TO MAXIMUM SECURITY RATHERLESS OF THE TYPE OF CRIME AND IRREGLESS OF THE ACTUAL MENTAL STATUS (THIS VIOLATE THE LEAST RESTRICTIVE SETTING PRINCIPLE (YOUNG BULL AT 324) SECTION 8.2.4.1, DMING 1979, 184 F.2d 278)

C-049

- inmates must NOT be issued with proper hygiene supplies at any time during
- Rules requiring "quiet time" but staff violate rules
- Quiet time is mandatory in prisons but not in mental hospitals. The BOP requires only one stand of quiet - the FMC officers require 3 per day.
- Only flashlights are supposed to be used at night for counts (rules) but officers and visitors turn on the room lights of inmates rooms to awaken the inmate to make him move his body. This is counter therapeutic to patients "but is quiet time at "present" (also - officers leave the lights on - switch on switch off room)
- mental patients must eat their meals within 22 minutes (including the time it takes to go to the dining room, wait in line to get the food, and then a ten minute to the table to the eat room).
- property purchased at another institution is NOT allowed at BOP. If it is not sold at BOP's property is destroyed without compensation or fine price.
- the mail of civil patients are treated as the mail for sentenced patients and treated
 - (i) mail from the courts are not considered legal mail and is handled by BOP
- Rules for mental patients are arbitrary;
 - (i) no supplies allowed; - after room search mail with electronics seized
 - (ii) staff search menus (to inmates) with staples
- inmates cannot touch cleaning supplies - but are allowed to clean their beds
- visiting permit (rule) on top of the bullet - but the bullet is clear permit
- no communication or communication to staff or others
 - (i) unit officers rule inmates may carry mail in menus (contrary to BOP rules)
- Civil patients cannot make phone calls during duty hours

C-050 12. SUPERVISORY STAFF AT FMC-DEVENS FAIL TO PROPERLY AND APPROPRIATELY TRAIN AND TO SUPERVISE SUBORDINATES. THERE IS NO ROUTINE TRAINING OF MENTAL HEALTH STAFF IN THE DAY-TO-DAY CARE AND TREATMENT OF MENTAL PATIENTS, 片USLY MENTAL PATIENTS ARE EITHER INDULGED WITH INDIFFERENCE OR ABUSED AND MISTREATED

C-051 SUPERVISORS ARE LIABLE FOR THE DEPRIVATION AND VIOLENCE OF RIGHTS CAUSED BY THEIR SUBORDINATES. SEE MCCLELLAND v. FRANCIS, 1011974, 610 F2d 693 AT 696; YANKEV v. RENE THUNDERBIRD, 901989, 123 F2d 675 AT 680-681; WAGNER v. BERNSTEIN, 561983, 621 F2d 675 AT 671; BOARD OF COUNTY COMMISSIONER v. BROWN, 1997, 520 US 517 AT 401-411; CITY OF CHICAGO v. HARRIS, 1989, 487 US 318 AT 333; HATCOOK v. FELIX, 761991, 915 F2d 744)

C-052 MENTAL HEALTH STAFF MUST HAVE EXTRA TRAINING AND CLOSER SUPERVISION (MILLER v. DE, 1953, 603 F Supp 254, AFF 824 F2d 108), A SUPERVISOR HAS A DUTY TO INSURE THAT THE STAFF IS PROPERLY TRAINED (JOHNSON v. LOUGHART, 821971, 763 F2d 526, 941 F2d 705)

C-053 PHELPS HAS SUFFERED INJURY BECAUSE OF THE FAILURE TO TRAIN AND SUPERVISE STAFF

C-054 13. THE EMPLOYEES AT FMC-DEVENS (AND AT ALL BIP PRUCHS) DO NOT HAVE CLEAR ABSENCE OF ALL JURISDICTION AND AUTHORITY IN THE CARE, CONFINEMENT, CARE, AND TREATMENT OF PHELPS

(A) 18 U.S.C. 4246(a) STATES NO CITIZEN SHALL BE DEPAINED OR IMPRISONED WITHOUT STATUTORY AUTHORITY.

VII

C-055 CAUSES OF ACTION

FIRST CAUSE OF ACTION

DAVID WILSON IS SUED FOR ESTABLISHING RULES CONTRARY TO BIP RULES, FOR NOT MAKING RULES SPECIFIC TO MENTAL PATIENTS, FOR FAILING TO APPROPRIATELY CONFERRED AUTHORITY OF SUPERVISORS

AND FOR FAILING TO PROPERLY AND ADEQUATELY TRAIN AND SUPERVISE HIS SUBORDINATES, THAT CAUSED PIHELP'S IRREPARABLE INJURY.

C-056

SECOND CAUSE OF ACTION:

MIKE BELLINGER, JAMES DODD, S. THOMPSON, KED S. THOMAS AND SUZAN FOR FAILING TO PROPERLY AND ADEQUATELY TRAIN AND SUPERVISE THEIR SUBORDINATES IN THE CARE AND TREATMENT OF THE MENTALLY ILL, THE LEARNING OF BOP RULES, AND THE RIGHTS OF INMATES. THEY HAVE FAILED TO PROPERLY AND ADEQUATELY TRAIN THEIR SUBORDINATES IN DISTINGUISHING THE DIFFERENCE IN CIVIL COMPATENTS (CIVIL PATIENTS) AND CONVICTED PRISONERS AND HAVE FAILED TO PROTECT THE RIGHTS OF CIVIL PATIENTS, AND FOR ALLOWING SUBORDINATES TO TREAT CIVIL PATIENTS AS CRIMINAL PRISONERS.

C-057

THIRD CAUSE OF ACTION:

PIHELP ARRIVED AT FMC-DEVEREUX, HE WAS INTERVIEWED BY SEVERAL BOP EMPLOYEES AND WAS EVALUATED BY RESPONDENT H. HANS (THE RUE). IN CLEAR ABSENCE OF ANY INDICATION TO CONFINED PIHELP (ARMED GUARD) IN MAXIMUM SECURITY, IN VIOLATION OF THE 4TH AMENDMENT (UNEXPLAINABLE SECURE) AND 8TH AMENDMENT (CURE AND CURE PRACTICES) WHICH ARE BOTH APPLICABLE TO PIHELP. THE 5TH AMENDMENT BECAUSE PIHELP IS A CURE PATIENT AND THE 9TH AMENDMENT (CIVILIAN LAW) AS WELL AS THE 1ST AMENDMENT WHICH PROHIBITS FEUD AND BOP RULES, 18 USC 4081.

C-058

PIHELP DEPARTED FROM THE STANDARDS OF HIS PROFESSION AND DID NOT EXERCISE PROFESSIONAL JUDGMENT BY NOT MAKING A INDEPENDENT EVALUATION AND DIAGNOSIS BUT MERELY RUBBER STAMPED THE OPINION OF PROFESSIONALS.

EXAMINERS WITH A TOTAL INDIFFERENCE AND DISREGARD AS TO THE ACCURACY

OF THE RECORD. HARRIS HAS TAKEN A PATH TO UPHOLD AND DEFEND THE LAW.

CONSTITUTION AND THE LAWS OF THE UNITED STATES SO HE KNOWS THE LAWS, AND
UNDERSTANDS THE LAWS, BUT STILL ACTED CONTRARY TO THE LAWS. PHELPS WAS LONELY,
PREDICITAL, COMPLAINT, AND FRIENDLY YET WAS TAKEN TO MAXIMUM SECURITY AND

PLACED IN A LOCKED ROOM AT THE ORDERS OF HARRIS. HARRIS VIOLATED 28 CFR

541. et seq., BOP Policy 6000 et seq., BOP Policy 3604.03 et seq., ^{3604.03} Youngberg v.

Renfro, 1982, 458 US 357 AND BENTHUS V. WINNEBAGO, 1989, 489 US 189 AND

ROCHIN V. CALIFORNIA, 1952, 342 US 165

C-059 POSSIBLE CAUSE OF ACTION:

RESPONDENT S. PLETCHER VIOLATED BOP RULE 3604.03 AND DEFENDED
FROM THE STANDARDS OF HIS PROFESSION (WHICH ISN'T DOCTORS) AND DID NOT
EXERCISE PROFESSIONAL JUDGMENT IN PERFORMING HIS DUTIES. PLETCHER TALKED TO
A CORRECTIONAL OFFICER (ACTING LIKE A DOCTOR) WITH THE THREATENING TO PUT
PETERS IN DISCIPLINARY SUSPENSION FOR MERELY DISAGREEING WITH HIM, "I KNOW
MORE ABOUT BOP RULES THAN YOU!" HE SAID. "WHAT'S BET?" PHELPS SAID. THEN
PLETCHER THREATENED TO PUT PHELPS "IN THE HOLE (N-1)" FOR DISAGREEING WITH
HIM. PHELPS WAS NOT VIOLATED ANY RULES NOR WAS HE DISRUPTIVE OR
DISRUPTIVE. IT UPSET PETERS VERY MUCH TO REALIZE THAT DOCTORS
DISREGARD THE RULES OF CONDUCT AND CARELESSLY VIOLATE OTHER RULES AND
THE RIGHTS OF THE MENTALLY ILL BY ACTING ARBITRARILY, CAPRICIOUSLY, AND
UNJUDICITIVELY.

C-060 FIFTH CAUSE OF ACTION:

RESPONDENT T. DRULS ACTED IN SILENT ABSENCE OF ALL JURISDICTION WHETHER IT'S
 VIOLATED B.C.P. RULE 3604.03 BY SCREAMING AND YELLING AT PHELPS IN A
 THREATENING, HOSTILE, AND MENACING MANNER JUST AFTER PHELPS HAD
 COMPLETED A CONVERSATION WITH DR. RICCS (WHICH WAS STILL PRESENT AS A
 WITNESS). DRULS IS A MALE NURSE AND KNOWS THAT HIS ACTIVITY ARE A
 DEPARTURE FROM THE STANDARDS OF HIS PROFESSION BUT HE ACTED ANYWAY TO
 CAUSE PHELPS TO FEAR FOR HIS SAFETY (BEING 71 YEARS OLD). PHELPS IS
 A MEDIUM ATTACHED RISK PATIENT AS WELL AS HAVING 2 STACKERS (BECAUSE TWO
 OFFICERS HANDCUFFED HIS ARMS BEHIND HIS BACK AND BENT THEM WITH FISTS,
 FULL, IN METAL FLASHLIGHTS BECAUSE THE AREA CUTTING HIS RECON WIRE
 "UNIVERSITY.")

C-061 SIXTH CAUSE OF ACTION:

RESPONDENT B. PATELICCITIO ACTED IN ABSENCE OF ALL JURISDICTION AND
 VIOLATED FEDERAL REGULATION 28 CFR 541, ET SEQ., B.C.P. POLICY 3604.03,
 IS USUALLY AND OTHER FEDERAL LAWS WITHIN IT (WITH COMPLETE INDIFFERENCE
 TO THE STATUS OR CONDITION OF PHELPS) ASSUMED PHELPS MADE FALSE
 CHARGES AGAINST PHELPS, MADE A FRAUDULENT WRITTEN INDICTMENT REPORT ON PHELPS
 THAT CAUSED PHELPS TO BE PLACED IN DISCOURTESY DETENTION FOR A WEEK
 PATELICCITIO ALSO VIOLATED PHELPS RIGHTS UNDER THE 4TH, 5TH, 8TH AND 9TH
 AMENDMENTS TO THE U.S. CONSTITUTION.

C-062 ON 11-23-04, AT APPROXIMATELY 16:30PM, PHELPS WENT TO THE OFFICERS STATION
 ON UNIT N-3 TO GIVE PATELICCITIO A CONFIDENTIAL MEMO ADRESSED TO CORRECTION
 K. LECHARD INFORMING LECHARD THAT THE STAFF ON N-3 WENT TO VOLUNTARY

OF FEDERAL LAWS AND BOP RULES, IN THE CARE AND TREATMENT OF THE DISABLED MENTALLY ILL. POCILICCIO OPENED THE MEMO (VIOLATIONS OF BOP RULES) AND READ THE MEMO (VIOLATING ANOTHER RULE) AND QUESTIONED PHELPS AS TO THE CONTENT OF THE MEMO (VIOLATING THE 1ST AMENDMENT AND ANOTHER B.O.P RULE). POCILICCIO BECAME HOSTILE AND ANGRY AND SCREAMED FOR PHELPS TO GET OUT OF THE OFFICE, AND PHELPS COMPLIED.

C-063

WHEN PHELPS WAS OUTSIDE OF THE THRESHOLD OF THE DOOR, HE TURNED AND SAID "YOU'RE NOT WEARING A NAME TAG (A VIOLATION OF BOP RULES) WHAT IS YOUR NAME OFFICER?" "DON'T WORRY ABOUT MY NAME" HE SCREAMED. AS HE STOOD AND APPREHENDED PHELPS MENTALLY (POCILICCIO IS ABOUT 6'4" TALL AND WEIGHTS OVER 250 POUNDS AND IS 40 YEARS YOUNGER THAN PHELPS) PHELPS ASK "ARE YOU REFUSING TO GIVE ME YOUR NAME? THAT'S AGAINST BOP RULES!" HE SCREAMED. "GET AWAY FROM MY OFFICE." PHELPS COMPLIED AND WALKED AWAY LOOKING AT THE PICTURES ON THE WALLS, THE CLOCK IN THE OFFICE, ETC. (PHELPS) WAS WAITING FOR THE INMATE TELEPHONE, TO MAKE A CALL TO (AUXILIARY).

C-064

PHELPS APPREHENDED A CLEANING CART THAT HAD AUTHORIZED SUPPLIES ON IT FOR INMATES TO CLEAN THEIR ROOMS. IT WAS PARKED IN THE HALLWAY OUTSIDE THE OFFICE. SUDDENLY POCILICCIO LEAPED FROM HIS CHAIR AND SPARED SCREAMING FOR PHELPS TO GET AWAY FROM THE OFFICE. PHELPS WALKED IN. "WHAT DID YOU TAKE OFF THAT WART AND PUT IN YOUR POCKET?" HE SCREAMED FLYING OUT OF CONTROL. "I DIDN'T PUT ANYTHING IN MY FUCKIN POCKET" PHELPS SAID. POCILICCIO SEARCHED PHELPS AND FOUND NOTHING.

C-065

"GET AGAINST THE DOOR!" HE YELLED, THEN QUICKLY CHANGED HIS MIND AND TOOK PHELPS IN THE HALLWAY. "GET AGAINST THEM WIRE!" HE SCREAMED, THEN QUICKLY CHANGED HIS MIND AGAIN AND YELLED FOR PHELPS TO GO TO THE OTHERSIDE OF THE HALLWAY. NOT ONLY DOES STAFF NOT WEAR NAME TAGS, NO OFFICE HAS THE NAME OF THE STAFF ON IT. TO FIND AN OFFICE IS JUST A GUESSING GAME. BOP RULES STATE ALL OFFICES WILL BE IDENTIFIABLE.

SO LEARN AGAINST THE WIND WITH ITS HANDS ABLEST ITS FRIEND AND THIS FEEL A PAPER.*

C-066 PETERS COMPLAINED WITH THE ORDER BUT PETERLICHTIG WAS NOT SATISFIED WITH THE DISTANCE BETWEEN PETERS' FEET AND YELLED TO MOVE THE FEET FURTHER APART. "I CAN'T" PETERS SAID, "THAT'S AS FAR AS I CAN GO. I HAVE A SPINAL INJURY." PETERLICHTIG BECAME MORE OUT OF CONTROL AND SHRIEKED FOR PETERS TO MOVE HIS FEET APART AND SIMULTANEOUSLY KICKING THE RIGHT LEG OF PETERS. KICKING HIS LEG ABOUT 6 INCHES FURTHER APART. PETERS IMMEDIATELY FELL SEVERE PAIN IN HIS BACK, SPINE, AND LEGS AND CRIED IN PAIN. PETERLICHTIG WAS COMPLICITY IN DIFFERENT AND YELLED "I TOLD YOU TO MOVE THOSE FEET APART."

C-067 THEN THE RIGHT ARM OF PIKE'S FELL FROM THE WINE TO ITS SIDE. "GET THAT ARM UP" PETROCCITIC SCREAMED. "I CAN'T DO THIS FOR LONG" PIKE'S SHED, "I HAVE MEDICAL PROBLEMS. I USE THIS AS A KUNG FU ATTACK AND IF I KEEP MY HANDS ABOVE MY SHOULDERS, THE PAINS COME. I USE 1 AND 2 STRIKES AND I CAN'T HOLD MY RIGHT ARM UP THIS LONG!" PETROCCITIC WAS CRUICALLY INDIFFERENT AND TOOK THE RIGHT ARM OF PIKE'S AND SLAMMED IT AGAINST THE WALL WITH VIGOR. "GET THAT ARM ON THE WALL!"

C-069 PHILIPS RICKE HAD FULL REGIM, BUT AT THE SAME TIME OTHER OFFICERS ARMED TO ESCORT PHILIPS TO DISCOURTELY DETENTION.

C-070

POTOLICHIC THEN TOOK THE MEMOS PHELPS HAD WRITTEN TO CONSIDER
 LEGALLY AND SPUDFULLY DESTROYED THEM. HE WENT TO PHELPS' ROOM AND TOOK
 PHELPS PROPERTY AND DESTROYED THE PROPERTY SPUDFULLY AND CONSIDERABLY.

C-071

THE NEXT DAY A GUARD STOOP A BINK SHEET OF PAPER UNDER THE DOOR
 WITHOUT SAYING WHAT IS. GUARD OR WHAT WAS WRITTEN ON IT AND PHELPS COULD
 NOT READ IT BECAUSE HIS EYEGUASSES WERE SEIZED (AS IT TURNED OUT IT WAS A
 COPY OF THE INCIDENT REPORT. THE BOP RULES REQUIRE THE REPORT TO BE GIVEN TO
 THE INMATE WITHIN 24 HOURS AND IF THE INMATE CAN'T READ IT, IT MUST BE READ
 TO HIM. IT WAS NOT. PHELPS ARGUES THAT IF HE IS GIVEN A DOCUMENT HE CAN'T
 READ AND IT IS NOT READ TO HIM, IT IS THE SAME AS NOT GETTING THE DOCUMENT
 AT ALL AND IS A DENIAL OF DUE PROCESS AND VIOLATES BOP RULES.)

C-072

A WEEK LATER PHELPS HAD A DISCIPLINARY HEARING (3 DAYS OVER THE
 TIME LIMIT TO HOLD A HEARING) AND THE HEARING OFFICER DISMISSED THE
 CHARGES AS BEING PATENTLY FALSE. "WHEN I FIRST READ THIS REPORT" THE
 HEARING OFFICER SAID, "I COULD EASILY SEE SOMETHING WAS WRONG WITH IT
 IT DIDN'T MAKE SENSE."

C-073

POTOLICHIC LIED IN THE REPORT, HE FILED A FALSE REPORT, AND HE CAUSED
 PHELPS TO SUFFER irreparable HUMILIATION AND SUFFERING.

C-074

SEVENTH CAUSE OF ACTION:

RESPONDENT W. BAZEN ACTED IN CONSPIRACY WITH POTOLICHIC TO MAKE
 FALSE CHARGES, SHE ENCOURAGED HIM AND ADVISED HIM, SHE ACTED IN
 CONSPIRACY AND JOINTLY PARTICIPATED IN THE VIOLATION OF THE RIGHTS OF PHELPS,
 BOP RULES AND FEDERAL REGULATIONS REQUIRING EMPLOYEES TO INTERVENE WHEN
 OFFICERS ARE VIOLATING THE RIGHTS OF INMATES AND TO IMMEDIATELY REPORT THE

... OFFENDING OFFICER TO SUPERVISORS... SHE DID NOT INTERFERE AND DID NOT REPORT THE ABOVE, ASSAULT, OR VIOLENTIONS. SHE FAILED TO EXERCISE PROFESSIONAL JUDGEMENT.

C-075 SHE IS THE NURSE FOR THE UNIT AND IS FAMILIAR WITH THE MEDICAL STATUS AND CONDITION OF PHELPS, BUT STILL DID NOT STOP POTOLUCCIO. SHE KNEW THAT PHELPS IS A CIVIL PATIENT AND KNOWS THAT MENTAL PATIENTS HAVE RIGHTS EXCEEDING MTC RIGHTS OF PRISONERS, AND OTHERS, YET SHE DID NOTHING TO STOP THE ASSAULT AND ABUSE. SHE AND POTOLUCCIO VIOLATED 18 CSC 241-242 (CIVIL RIGHTS) 18 CSC 1621 et seq (PERIOD) AND OTHER FEDERAL LAWS.

C-076 BLAZON AND POTOLUCCIO HAD BEEN PLAYING CARD GAMES FOR ABOUT 2 HOURS PRIOR TO THE INCIDENT. THEY NOT ONLY APPEARED TO BECOME INCREASINGLY "FRIENDLY" BUT ALSO BECAME HOSTILE WHEN PHELPS INTERRUPTED THEIR GAMES TO HAND HIM THE MEMO. PHELPS TOLD THE DISCIPLINARY OFFICER, "YOU KNOW WHAT THIS IS ALL ABOUT? POTOLUCCIO JUST WANTED TO IMPRESS A FEMALE WITH HIS MASTODON AND POWER. THAT'S WHAT THIS IS ALL ABOUT—TRYING TO IMPRESS A FEMALE, BUT ALL HE SUCCEEDED IN DOING WAS TO PROVE HE HAS A CHILDISH, KIDNAPPILE MIND WITH THE INABILITY TO MAKE CORRECT DECISIONS AND UNABLE TO CONTROL HIS EMOTIONS. THE HEARING OFFICERS AGREED AND DISMISSED THE CHARGES SAYING "STAY OUT OF TROUBLE."

C-077 EIGHTH CAUSE OF ACTION:

UNDER THE "INDIVIDUALIZED TREATMENT" OF 18 USC 4081, AND THE "NATURE OF THE CHARACTER" OF 18 USC 4247(c), AND UNDER THE PROVISIONS OF THE AMERICAN'S WITH DISABILITIES ACT, AND UNDER THE MENTALLY ILL BILL OF RIGHTS (42 USC 10841) PHELPS MADE A REQUEST FOR A STRICT RECALL IN OPEN

REBOUTER IS THE LEAST RESTRICTIVE SETTING NOT ONLY BECAUSE OF HIS AGE (71) AND MEDICAL DISABILITIES, RESTRICTIONS AND LIMITATIONS (STROKE, HEART ATTACK RISK, ARTIFICIAL LEG, AND OTHERS) BUT ALSO FOR SAFETY AND SECURITY THAT PREVENTS HOSTILE CONFRONTATION WITH OTHERS WHO DO NOT SHARE THE SAME RELIGIOUS BELIEFS AND FEELS HIS BELIEFS OFFENSIVE AND UNACCEPTABLE TO SUCH A DEGREE THAT THEY BECOME CONFLICTIVE. PHAPPS DOES NOT PROLIFERATE HIS RELIGION NOR DOES HE RECRUIT CONVERS, HOWEVER OTHER INMATES KNOW HIS IDEOLOGIES. HOW?

C-078 AT HIS PREVIOUS PRISON, INMATES WOULD DISSEMINATE COPIES OF PHAPPS PUBLICATION IN THE LAW BOOKS AND THEN PHOTOCOPY SEVERAL COPIES OF THE CASE AND THEN DISTRIBUTE THE PHOTOCOPIES TO OTHER INMATES WITH THE SAME INTENT AND SIMILAR TO OTHER PHAPPS TO SUFFER IN SAME WAY. THE COPIES WERE ALSO GIVEN TO SELECTED STAFF MEMBERS. MOSTLY PHAPPS SUFFERED HARASSMENTS, OSTRACISM, AND SLIDING REMARKS AND DISEM THREATS OR VEILED THREATS BUT HE ALSO SUFFERED IN OTHER WAYS. BLACK INMATES WOULD FAUCIL REPORT THAT PHAPPS CALLED THEM A "NIGGAR" OR SOMETHING DEROGATORIALLY JUST TO GET PHAPPS PUT IN THE GATE OR MADE TO ANOTHER UNIT.

C-079 AT HIS PREVIOUS PRISON, INMATE DISTRIBUTED COPIES OF CASE TO OTHER BLACK INMATES AND STAFF. HE WOULD IMMEDIATELY TURN THEM IN TO ANOTHER PRISON FOR ENHANCING THE LIFE OF ANOTHER INMATE AND FOR INTERFERING WITH THE THERAPY AND TREATMENT PROGRAM OF OTHERS.

C-080 FIVE DAYS AFTER PHAPPS ARRIVED AT FMC-BEVELYN HE PASSED A GROUP OF BLACK INMATES. ONE BLACK INMATE RECALLED TO THE OTHERS "THAT'S THAT GUY FROM F- -- F- --" (INJECTION, PHAPPS) PHAPPS HAD NEVER SEEN THEM BEFORE AND HE IGNORED THE REMARKS. HOW DID THEY KNOW?

C-081 PITELLS WENT TO THE DINING ROOM AND IN THE DINING ROOM WAS THE SAME BUREAU INMATE THAT HAD BEEN TRANSFERRED TO BROTHER. THEY ALL LIVED IN THE MONTHLY HEALTH UNITS.

C-082 CONSECUTIVE LEONARD REFUSED TO ASSIGN PITELLS TO A SINGLE ROOM INSTEAD OF SHARING THE FACTS OF ELIGIBILITY. ACCORDING TO BOP RULES, IT IS THE CONSECUTIVE WIFE ASSISTED ROOMS AND HE DOES THAT ARBITRARILY WITHOUT SCREENING OR EVALUATING PRIMARILY FOR COMPATIBILITY OR INDIVIDUAL NEEDS. WHATEVER BED IS VACANT IS WHERE THE INMATE GOES. HE VIOLATES THE TERMS OF 18 U.S.C. 4281 (INDIVIDUALIZED TREATMENT) AND 18 U.S.C. 4247(c) (ACCORDING TO THE EXHAUSTION OF THE INMATE'S ~~RIGHTS~~ THE MAX. COURTS, DESANTO V. WHITBURN, 1981, 459 U.S. 189.

C-083 BUT TO KEEP PITELLS LOCKED IN MAXIMUM SECURITY OR IN A SEMI-LOCKED UNIT VIOLATES THE LEAST RESTRICTIVE SETTING REQUIREMENTS OF THE SUPREME COURT. (REMEMBERING THAT PITELLS IS A CIVIL PATIENT AND NOT A CRIMINAL PRISONER, SO THE Courts MUST EXAMINE PATIENTS RIGHTS - NOT PRISONERS RIGHTS. SEE ROME V. YELLMERSON, 478 U.S. 644 F2d - (COURTS MUST USE CASE LAW DECISIONS FOR COMMITTED PRISONERS TO BE APPLIED TO CIVIL COMMITMENTS) AFFIRMED IN EDWARDS V. ROMA, 1982, 457 U.S. 307.

C-084 NINTH CAUSE OF ACTION.

PITELLS IS DENIED HIS 1ST AMENDMENT RIGHT TO PETITION THE COURTS (DENIAL OF ACCESS TO THE COURTS).

C-085 TAKEN LITERALLY, PITELLS IS NOT DENIED "ACCESS TO THE COURTS." HE IS DENIED MEANINGFUL ACCESS TO THE COURTS.

C-086 THE RULES (ESTABLISHED BY WARDEN WINE) PROHIBITS PITELLS FROM LIVING UNIT N-3, EXCEPT TO GO TO THE DINING ROOM FOR MEALS. THE ONLYONE GO

TO THE LAW LIBRARY TO CONDUCT LEGAL RESEARCH IN ORDER TO PREPARE DOCUMENTS FOR THE DEFENDANTS AND INTERESTED PARTIES. PHILIPS SENT A MEMO TO THE LAW LIBRARY REQUESTING LEGAL RESEARCH ASSISTANCE, BUT THERE WAS NO RESPONSE. HE SENT A MEMO TO CONVENOR LEONARD AND UNIT MANAGER LOUIE REQUESTING PERMISSION TO GO TO THE LAW LIBRARY BUT NEITHER INSTRUCTED THAT THEY WERE INAPPROPRIATE TO THE REQUESTS.

C-087 PHILIPS GAVE PAPERS TO ANOTHER INMATE (WITH HANDS IN A CUFF JACKET) TO PHOTOCOPY AT THE LAW LIBRARY. THE MACHINES WOULD NOT PHOTOCOPY THRU BLUE INK AND THE UNNECESSARILY COULD COPY PAPERS WITH BLUE INK.

C-088 PHILIPS ASK THE UNIT OFFICER TO USE THE UNIT TYPEWRITER (WHICH EACH UNIT IS REQUIRED TO HAVE) AND WAS INSTRUCTED THAT THE UNITS DO NOT HAVE TYPEWRITERS FOR LAWNET USE.

C-089 PHILIPS ASK A FRIEND TO GET SOME FORMS FROM THE LIBRARY (WHICH THE LIBRARY IS REQUIRED TO HAVE) AND SOME ADDRESSES OF COURTS (etc) AND WAS TOLD THAT THE LIBRARY DID NOT PRODUCE SUCH DOCUMENTS AND, PHILIPS WAS INSTRUCTED THAT HE COULD NOT GET THEM FROM OTHER INMATES EVEN THOUGH THE STAFF WILL NOT ASSIST HIM AND WILL NOT ALLOW HIM TO GO ANYWHERE TO ASSIST HIMSELF. AS AN ADDENDUM TO HIS COMPLAINT,

C-090 PHILIPS REQUESTED SOMETHING TO COPY THIS PETITION, BUT THIS REQUEST WAS DENIED UNTIL A CLERK AT THE PETITION REGISTERED IT WAS A LEGALITI AGAINST BOP UNPLACED. IT WAS AGREED THAT PHILIPS WOULD PAY FOR THE PHOTOCOPYING. EXTRA COPIES WERE MADE AND GIVEN TO THE FACILITY ATTORNEY, SOME RESPONDENTS, AND OTHERS EVEN BEFORE THE COMPLAINT WAS SENT TO THE COURT (by CONVENOR LEONARD).

C-091 WHEN PHILIPS ARRIVED AT FMC DEVON, HE REQUESTED PERMISSION TO GO TO THE LAW LIBRARY. HIS DOCTOR (HMAS) APPROVED THIS REQUEST. AFTER SOME DELAY OF NOT BEING ALLOWED TO GO, PHILIPS ENQUIRED ABOUT A PERSON AND DR HMAS INFORMED PHILIPS THAT THE UNIT TEAM MEMBERS WERE PURSUING HIM FOR THE INCIDENT REPORT HE RECEIVED AND WITHIN THE DISCIPLINARY COMMITTEE DISMISSED AS BEING A FRAUDULENT

RE PORT

C-092. THE TEAM MEMBERS DID NOT GIVE PIFERS ANY DUE PROCESS BEFORE IMPOSING THE PUNISHMENT OF DENYING THEM ACCESS TO THE LAW LIBRARY. ONE OF THE TEAM MEMBERS WAS CASE MANAGER PAY, AND PAY'S HAD MURKIN INFORMED HER THAT THE DISCIPLINARY COMMITTEE HAD DISMISSED THE COMPLAINT AGAINST HIM. HE ASK HER TO EXPOSE THE INCIDENT REPORT FROM HIS REVIEW (WITHOUT SITE'S AUTHORITY TO DO) BUT SITE SAID "THAT LET MY BUSINESS - THAT'S THEIR BUSINESS. SITE (AND THE OTHER TEAM MEMBERS) DECIDED TO RETALIATE AGAINST PAY FOR PUBLISHING ON THE INCIDENT REPORT AND TO PUNISH HIM FOR PUBLISHING BY DENYING THEM ACCESS TO THE LAW LIBRARY.

C-093. THIS PUNISHMENT WITHOUT ANY DUE PROCESS ALSO VIOLATED DISCRETE DISCIPLINARY AND DISCRETIONARY UNDISCRETE PUNISHMENT.

C-094. 16th CAUSE OF ACTION: RESTRICTION TO COURT ACCESS:

RULES OF THE BOP REQUIRE ASSISTANCE (WITNESSES) TO OBTAIN ACCESS TO THE COURTS. PIFERS REQUESTED THAT \$150.00 BE WITHDRAWN FROM HIS ACCOUNT AND TO ISSUE A CHECK MADE PAYABLE TO THE COURT AS A FEE FOR THIS ACTION. SITE IS A REGULAR ATTORNEY AND BOP POLICY PERMITS THE ATTORNEY'S. THE MONEY IN QUESTION BELONGS TO PIFERS. PIFERS IS NOT INCOMPETENT AND MANAGES HIS OWN FUNDS. BOP POLICY STATES THAT INMATES MAY WITHDRAW FUNDS AT ANY TIME AND CAN SEND MONEY TO ANYONE NOT IN SECURITION OR FUGES THE BOP ONLY HOLDS THE MONEY - LIKE A BANK.

C-095. "SISTER" (BUSINESS OFFICE SUPERVISION) REFUSED THE REQUEST SAYING THAT SITE HAD SET UP HER OWN NEW PROCEDURES WHEREBY THE INSTITUTION MUST FILE A UNIT FOR THE COURT TO REVIEW ANY ACTION (TO DETERMINE IF MERIT) AND THEN WAIT FOR THE COURT TO ISSUE AN ORDER TO WITHDRAW THE MONEY.

C-096. THIS IS JUST A SHAM TO ERASE OBSTACLES AND BARRIERS FOR INMATES TO

EVERYONE TO GAIN ACCESS TO THIS COURTS. COURTESY OF WARDEN INFORMED PHILIPS THAT
 WARDEN WOULD CONDUCT THE PROCEDURE AFTER IT WAS IMPLEMENTED. THIS PROCEDURE IS
 DESIGNED SOLELY TO HARASS, ANNOY AND SERVE NO LEGITIMATE FUNCTION. IT MIGHT
 BRING UP OBSTACLES TO HEARING THE CASE.

C-097 II. Cause of Action:

ON 1-23-2005 SCOTTIE SCOTT COLLECTED A GROUP OF INMATES THAT WERE ON "CUT-OUT"
 (WHICH IS A LIST OF INMATES AND THEIR SCHEDULED ACTIVITIES). PHILIPS' NAME WAS ON THIS LIST.
 PRIOR TO THAT, A NURSE HAD NOTIFIED PHILIPS THAT HE WAS ON "CUT-OUT" BUT BECAUSE HE WAS ON
 UNIT N-3 (A SECURITY UNIT) THAT DR. SAWICKI, P.M. (WITNESS P.M. IS AN INMATE LOCATED TO THE
 UNIT AND ESCORT THE INMATES TO A GROUP THERAPY ROOM (INMATES ON N-3 MUST BE ESCORTED
 TO GROUPS. THEY CANNOT LEAVE THE UNIT UNESCORTED EXCEPT TO GO TO MEALS).

C-098 DR. SAWICKI TOLD THE INMATES "YOU HAVE SCHEDULED FOR GROUP THERAPY. IF YOU DO ANOTHER ACTIV. YOU DON'T HAVE TO DO IF YOU DON'T WANT TO. YOU HAVE THE RIGHT TO REFUSE. IF YOU REFUSE I WILL ASK YOU TO SIGN A RELEASE FORM (BP-358(G)) AND IF YOU SIGN, YOU WILL NOT BE PUT ON CUTO-OUT AGAIN. I WONT BOTHER YOU ABOUT IT."

C-099 PHILIPS INFORMED SCOTTIE HE WAS REFUSING AND REQUESTED THE FORM TO SIGN.
 SCOTTIE SAID PHILIPS MUST GO TO GROUP THERAPY AND SIGN THE FORM. SCOTTIE SAID HE
 MUST STAY IN GROUP THERAPY THE FULL HOUR BECAUSE HE IS A SECURITY INMATE. SCOTTIE SAID
 "LET ME GET THIS STRAIGHT. I CAN REFUSE TREATMENT BUT YOU ARE REQUIRING ME TO
 RECEIVE THE TREATMENT BEFORE I CAN REFUSE IT? - THE VERY SAME THING AS I HAVE
 A RIGHT TO REFUSE?" HE REPLIED "YES."

C-100 PHILIPS REFUSED TO GO SAYING THAT WAS THE MOST ILLICIT THING HE HAD HEARD SINCE
 HIS WIFE WENT TO THE MAIL AND SPENT \$500 DOLLARS ON CLOTHES TO SAVE MONEY / 40 DAYS
 AGO). SINCE SCOTTIE SAID HE MUST GO, PHILIPS RETURNED TO HIS ROOM.

C-101 TO AVOID LATER SCENICCA BDUCTIVE TIE REFUSAL FORM TO PITELPS FOR PITELPS TO SIGN. PITELPS SIGNED THE FORM. SAWINSON SAID "BECAUSE YOU REFUSED TO BE ON CALL OUT AND BECAUSE YOU REFUSED GROUP THURSTY, I'M WRITING A DISCIPLINARY INCIDENT REPORT ON YOU." PITELPS SAID "LET ME GET THIS STRAIGHT - YOU'RE GOING TO PUNISH ME FOR NOT DOING WHAT I AM NOT REQUIRED TO DO?" "YES HE SAID, 'YOU CAN'T DO THAT' PITELPS SAID. "I HAVE A RIGHT TO REFUSE - YOU CAN'T ME THAT RIGHT." "WELL, YOU HAVE THE RIGHT TO BREAK THE LAW TOO BUT YOU MUST FACE THE CONSEQUENCES" HE SAID. PITELPS SAID "THAT'S AS ILLUSORY AS YOU CAN MAKE IT - NOBODY HAS A RIGHT TO DO A LITTLE, THAT'S WHY WE HAVE PRISONS." "WELL, ANYWAY" HE SAID "I'M WRITING A INCIDENT REPORT ON YOU"

C-102 PITELPS WENT TO HIS COONDOOR TO GET A ADMINISTRATIVE REMEDY FORM. THE GUARD REFUSED. PITELPS WENT TO THE UNIT MANAGER AND THE GUARD TO EXPLAIN THE SITUATION AND THEY REFUSED TO LISTEN TO ANY ACCOUNTS. "IF YOU WERE ON CALL OUT AND YOU DIDN'T GO - YOU GET PUNISHED!" "THAT'S NOT SO MY ATTITUDE" PITELPS SAID "BUT IT'S DEFINITELY (APPROVED)"

C-103 PITELPS WAS SO DISTRESSED THAT HE COULD NOT EAT HIS MEAL (HE HAD TO SET THEM AT THE INITIATE DINING ROOM) AND HE WAS SO UPSET HE HAD TO SEEK MEDICAL ATTENTION FROM THE DOCTOR ON THE UNIT (PITELPS HAS HAD 2 SEIZURES AND A HEART ATTACK - HE IS 71 YEARS OLD)
(VIVID STRESS AND EXCITEMENT CAUSES HIS MEDICAL PROBLEMS)

C-104 12TH CAUSE OF ACTION:

PITELPS DOES NOT COME UNDER THE PROTECTION OF 18 USC 4243 (INNOCENT STATUS) THE STATUTE REQUIRES A CRIME. THE GOVERNMENT HAS ADMITTED THAT PITELPS DID NOT COMMIT A CRIME. IN 1992 THE GOVERNMENT DISCOVERED EVIDENCE THAT SAWINSON FILED MENTAL INNOCENCE OF PITELPS AND THAT HE WAS NOT MENTALLY ILL (UNDER THE LAW) BUT STILL WOULD NOT RELEASE HIM BECAUSE OF HIS SHARED RELIGIOUS BELIEFS THAT THE GOVERNMENT FELD OFFENSIVE (NOT UNLAWFUL - JUST OFFENSIVE)

C-105 13th CAUSE OF ACTION

THE U.S. ATTORNEY GENERAL ABUSED HIS DISCRETION MADE EQUITABLY GRANTED, INTERPRETATION, AND CONSTRUCTION OF LAW AND FACT, AND MISAPPLIED THE FEDERAL MENTAL HEALTH LAWS. THE LAW ALLEGEDLY PLEADS TO BE HOSPITALIZED. THE FEDERAL GOVERNMENT DOES NOT HAVE A CIVIL HOSPITAL TO WHICH TO CONFINED INSANITY ACQUITTEES (FOULKE V. LEAVENWORTH, 1984, 504 U.S. 71, WILLIAMS V. KUHNHORN 19473, 431 F.2d 353, DAVIS V. KUHNHORN, 162001, 264 F.3d 86) US V. HUMPHREY, 122 F.3d, pgs 4

C-106 THERE ARE NO PROVISIONS IN THE FEDERAL MENTAL HEALTH LAWS THAT ALLOWS, OR AUTHORIZES FEDERAL HOSPITALIZATION OR CONFINEMENT. THE ATTORNEY GENERAL HAS OVER 4 OPTIONS AND ALL THOSE OPTIONS DO NOT INCLUDE ANYTHING FEDERAL (18 U.S.C. 4247(i))

C-107 THE U.S. ATTORNEY GENERAL MISAPPLIED THE LAW AND PUT PITCHER IN FEDERAL CUSTODY.

C-108 14th CAUSE OF ACTION

THE U.S. BUREAU OF PRISONS DOES NOT HAVE LAWFUL CUSTODY OF PITCHER AND, CONSEQUENTLY, THE EMPLOYEES OF THE BOP DO NOT HAVE LAWFUL JURISDICTION OR AUTHORITY OVER PITCHER AND CANNOT TREAT PITCHER AS A CONFINED PRISONER (US V. JONES, 1983, 463 U.S. 369), BECAUSE HE IS A UNCONFINED CIVIL MENTAL PATIENT (NOT A CONFINED PRISONER) ~~HE~~ MUST BE TREATED BY RULES OF A MENTAL HOSPITAL-NOT BY THE RULES OF A PRISON (TYLER V. CINCINNATI, 60 MC 964, 299 F. Supp. 684; CAGLETON & FRANCIS, 1992, 183 F. Supp. 1511)

C-109 THE RESPONDENTS REFUSE TO ACKNOWLEDGE THAT PITCHER IS A UNCONFINED CIVIL MENTAL PATIENT (AND NOT A CONFINED SENTENCED PRISONER) AND TREATS HIM WORSE THAN SENTENCED PRISONERS WHOSE RULES ESTABLISHES FOR ONLY CONFINED PRISONERS

C-110 THE GOALS FOR THE TREATMENT OF THE MENTAL ILLNESS IS PRESCRIBED IN 42 U.S.C. 10341 AND POY V. GROUNDBOLT 1983, 190 CAL Rptr. 89, 191 CAL 2d 1. SEE MCMILLAN V. DEPARTMENT OF CORRECTIONS, D. MASS 1991, 770 F. Supp. 43, AFF 9C. F.2d 987

C-111 PITCHER HAS BEEN REREFUSED ANY TREATMENT (ANDERSON V. GOVERNOR, 1981, 483 U.S. 633, WATERS V. WESTERL, 1970, 564 F.2d 655, SIMMONS V. BURKE, 1987, 814 F.2d 1261, CARLTON V. SPENCER, 1974, 467 F.2d 172, JOHNSON V. U.S., 1981, 432 A.2d 354, WHITE V. NEPENOUR, 1940, 879 F.2d 103; US V. HUMPHREY, 122 F.3d, pgs 4

C-112 15th CAUSE OF ACTION

THE U.S. BUREAU OF PRISONS, AND ITS REPRESENTATIVES, HAVE VIOLATED THE TERMS OF THE AMERICANS WITH DISABILITIES ACT (42 USC 12101), THE CERTRALIZED GUARD CONTRACT, AND THE BILL OF RIGHTS FOR THE MENTALLY ILL (42 USC 10346).

C-113 THEY HAVE FORCED THE MENTALLY ILL WITHIN THE BUREAU PRISONS. THEY DO NOT PROVIDE INDIVIDUALIZED CARE OR TREATMENT PARTICULARIZED TO THE TYPE OF DISABILITY AND THE CHARACTER OF THE DISABLED PERSON. THEY DO NOT PAYING A DISPARATE AMOUNT FOR CIVIL PATIENTS. THE ACCOMMODATIONS ARE FOR CONFINED AND SEPARATED PRISONERS NOT FOR THE MENTALLY DISABLED. STAFF IS UNQUALIFIED IN THE CARE OF THE SICK AND THE MENTALLY DISABLED PATIENT, AND DO NOT USE PROFESSIONAL JUDGMENT;

C-114 PETERS HAS BEEN ABUSED, MISTREATED, ASSAULTED, THREATENED, TORTURED, AND FORCED IN U.S. BUREAU OF PRISON EMPLOYED IN HIS 20 YEARS OF INCARCERATION. OFFICERS OF THE BOP HAVE BEATEN HIM WHILE HE WAS ILLNESS, CARRIED HIM TO A FLOOR AT NIGHT IN RAINSTORMS, SNOWSTORMS, AND SUMMER HEAT, DEPRIVED HIM OF FOOD, CLOTHING, SHELTER, AND MEDICAL CARE, GAVE MEDICATION TO HIM FOR NOBODY OTHER THAN MEDICAL, CONFINED TO ISOLATION, SEGREGATION, AND QUARANTINE WITHOUT ANY LEGITIMATE REASONS AND WITHOUT ANY DUE PROCESS, HANDED OR DOCS AND HAMMERS BY HANDCUFFS ON WRISTS OVER THE HEAD WITH FOOT OFF THE FLOOR, STRAPPED TO BED IN SOLITARY RESTRAINT FOR 5 DAY. BECAUSE OF BEING 16 MINUTES LATE FOR AN APPOINTMENT AND THEN BURNED WITH HOT CIGARETTES AND HOT COFFEE WHILE IN RESTRAINTS, AND MANY OTHER UNDUE AND UNNECESSARY ACTS OF TORTURE WHICH WAS NOT ADMITTED -BUT ADMITTED TO. ONE NEW DOCTOR READ PETERS RECORD AND TOLD TO SUPERVISOR PETERS BY DISMISSING PETERS AS A DIABETIC AND COMMUNITY IT WAS HIS DUTY TO SEND PETERS LIFE WITH HIS SON (THE U.S. MARSHALS CONVICTED PETERS TO MAKE HIM TO COOK ON A GRILL JUST 15 MINUTES BEFORE THE SCHEDULED INJECTION) ALL THIS TIME IS DOCUMENTED -AND MORE! BUT, IN ALL THESE 20 YEARS PETERS HAS BEEN DESTITUT. ALL HIS EFFORTS WAS A RETALIATION FOR SICKNESS. PETERS FOR FAILING TO PROTECT OF THE ABUSION CONVICTED

C-115 16th CIRCUIT DECISION

WHEN PHELPS ENTRED THE INSTITUTION, HE HAD NO PERSONAL PROPERTY BECAUSE THE BOP WOULD NOT ALLOW HIS PROPERTY TO BE TRANSFERRED WITH HIM EVEN THOUGH IT WAS TRANSFERRED ON A PRIVATE JET AIRCRAFT AND THERE WAS ADEQUATE ROOM FOR THE PROPERTY.

C-116 EIGHT A MONTH LATER THE PROPERTY ARRIVED FROM HIS PREVIOUS PRISON AT BURNER COUNTY, CALIFORNIA. SEVERAL ITEMS WERE NOT ALLOWED SIMPLY BECAUSE THEY WERE NOT SOUGHT TO INMATES AT NEWENS (BUT WAS SOLD TO INMATES AT BURNER). THE WARDEN'S POLICY IS "IF WE DON'T SEE IT HERE - YOU DON'T HAVE IT."

C-117 PHELPS HAD, IN HIS POSSESSIONS BIBLE LESSONS WHICH THE OFFICERS WOULD NOT ALLOW PHELPS TO HAVE BECAUSE OF ITS RELIGIOUS CONTENT. ALL THE LESSONS WERE WITH RELIGIOUS AND WERE LESSONS ON THE SCRIPTURE OF THE CHRISTIAN HOLY BIBLE, AS ILLUSTRATION TO SOCIETY, GOVERNMENTS, PEOPLE, CULTURE, AND WORLD EVENTS.

C-118 NOTHING IN THE LITERATURE EDUCATION THE DISCERNMENT OR OPERATION OF THE INSTITUTION. THE RELIGION EDUCATION PICTURES 1ST, 5TH, AND 9TH (COMMON CORE) RIGHTS AS WELL AS HIS RIGHTS UNDER 42 USC 2000bb - 2000bb-7 (RELIGIOUS PROGRAM RESTRICTION ACT) BECAUSE HIS RELIGIOUS TEACHERS ARE NOT STUDY TO SHOW ANOTHER APPOINTMENT OF GOD (2 TIMOTHY 2:15, 1 THESSEPHALIANS 4:11) SEE BRYANT V. LONG, 901983, 46 F3d 548; HERNANDEZ V. COMMISSIONER, 1988, 490 U.S. 635, BLOCK V. KATHARTES, 1984 468 U.S. 576; THE COMMISSIONER ALSO DISCUSSED THE RELIGIOUS RIGHTS EXERCISED BY PERSONS WITH DISORDERS DISORDERS (42 USC 2000c)

C-119 IS AN INSTITUTION, OR FACILITY, HAVING CONDITIONS AND RESTRICTIONS UPON A PRISONER OF WHICH IT DOES NOT HAVE DUE PROCESS CUSTODY? CAN PRISON RULES BE APPLIED TO DISORDERS, ESPECIALLY PATIENTS WHICH INTERFERE WITH THE PATIENTS RELIGIOUS BELIEFS

C-120 THE PRISON ALLOWS THE PATIENT WITH TEACHINGS OF ISLAM, MUSLIM SLICK TOPPS, BUTHE, HAMSAH ARTICLES, PASTAFARIANS, ETC BUT WILL NOT ALLOW TEACHINGS OF ISLAMIC PURITY (SEE MCCARTY V. HARRIS, 401987, 827 F.2d 634-47638 - ADOPTING ISLAMIC PURITY IS MAXIMUM IN SECURITY CONFINEMENT)

C-121 17th CAUSE OF ACTION

DOES A UNCONVICTED CIVIL MENTAL PATIENT HAVE A GREATER RIGHT OF PERSONAL FREEDOM THAN CONVICTED AND SENTENCED PRISONERS?

C-122 PICTURES THIS NO PLEASING AT ALL IN THE B.C.C. SYSTEM. UNDUL LINES AROUND HIPS TO ISOL THIGH
AS A CONSCIENTS PLEASURE (28 C.F.R. 551.101(a)(2) AND B.C.P. PLEASURE 7335;ct) PICTURES, WITH
LSD REINFORCE, AND PLEASURE CAN BE SEPARATED AT ANY TIME UNDER ANY CIRCUMSTANCES,
FOR NO REASON OR FOR ANY REASON AT ALL (AND THIS ISOK)

C-123 HIS PICTURES (ALSO ARE MENTIONED AND ILLUSTRATED). ALL HIS MESSAGES ARE TRANSMITTED BY
VARIOUS SURVEILLANCE CAMERAS, HIS PERSONAL AND LOCAL MAIL IS CHECKED, INSPECTED,
READ, PHOTOGRAPHED, AND PREDICTED ON THE COMPUTER PROCESS.

C-125 15th Line of Action.

POLICE CARS THAT FORCED Plaintiff BEING A NURSE ON THE DAY TO FILE A COMPLAINT TO THE FMC-DOJ ON THE SIDE OF THE ROAD? FEDERAL RULES OF APPRAISEMENT REQUESTED. Plaintiff FILED A FEDERAL REQUEST WITH DOJ AND DOJ (SIXTY-THREE) DAYS LATER TO DISMISS THE CASE. BUT RESPONDENT DOJAN RETURNED THE REQUEST REQUESTED TO RESPOND.

SUMMARY AND CONCLUSION

C-126 1. FIRST THE COURT MUST DETERMINE ITS OWN JURISDICTION (STEELERS v CITIZENS, 1998, 323 US 33, p 44). A COMBINING FIVE ALLEGED VIOLATIONS OF LAW AND THIS CONSTITUTION SHOWS THAT COURT JURISDICTION (DELL v. KORN, 1946, 327 US 678, BROWN v. BUREAU OF ALLEGED VIOLATIONS OF THE FEDERAL BUREAU OF INVESTIGATION, 1971, 403 US 533, ALEXANDER v. COMMISSIONER, DEC 1987, 865 F2d 474 at 502 (COURT HAS INVESTIGATIVE POWERS TO ACT IN THE INTEREST OF JUSTICE); IF THE COURT HAS JURISDICTION, IT MUST

C-127 2. DETERMINE IF 18 USC 4243 CAN BE APPLIED TO PHILIPS AND THAT REQUIRES A STATUTORY ANALYSIS WHICH OF THE STATUTES ARE TO BE GIVEN THEIR PLAIN MEANING (CAMP, NESTLÉ v. GIL, 1971 242 US 470, p 485) AND TO LOOK TO THE MEANING OF CONGRESS (REGGIANI v. SIMONE, 1993, 507 US 19, p 10). THE STATUTE REQUIRES A CRIMINAL ACT BEFORE IT CAN BE APPLIED (WILLIAMS v. WILSON, 1961 841, 734 F2d 1431). IF PHILIPS DID NOT COMMIT A CRIME (AND THE GOVERNMENT HAS ADDITION TO DISPUTE) THEN THE LAW IS INAPPLICABLE AND THE MATTER ENDS BECAUSE UNLAWFUL HARBORING IS UNLAWFUL. IF PHILIPS IS UNLAWFUL UNDER THE JURISDICTION OF 18 USC 4243, THEN THE COURT MUST

C-128 3. DETERMINE IF THE U.S. ATTORNEY GENERAL MISAPPLIED THE LAW; COURTS CAN REVIEW DECISIONS WHICH HAVE A MISAPPLICATION OF LAW OR A MISAPPLYING OF THE LAW IN THE STATUTORY PROVISIONS (PURPOSE PROVISIONS v. BULLETT, 1971, 641 F2d 1006 at 1007) IF THE ATTORNEY GENERAL MISAPPLIED THE LAW, THE COURT CAN END THE ENQUIRY BEFORE EVIDENCE; AFTER THAT IS UNLAWFUL. IF THE ODDS ARE NOT, THE COURT MUST

C-129 4. DETERMINE IF THE U.S. BUREAU OF PRISONS HAS LAWFUL CUSTODY OF PHILIPS. A PERSON CANNOT BE INCARCERATED AGAINST A CONVICTION (SPREEK, MCGOWAN 1971, 443 US 151 at 144; 18 USC 4001(c)) UNLESS WHEN THE BOP IS NOTIFIED THAT A PERSON MAY BE FEDERAL INCARCERATE. THE BOP HAS A DUTY TO INVESTIGATE THE VICTIM OF THE INCARCERATION (WILHELM v. COKE CO., 1919 281, 141 F2d 1373 at 1381) WITHIN THE BOP WAS NOTIFIED IN 1942 THAT PHILIPS DID NOT COMMIT THE CRIMES, IT DID NOTING. IF THE BOP HAS LAWFUL CUSTODY OF PHILIPS, THE COURT MUST

C-130 5. DETERMINE IF THE BOP EMPLOYERS HAVE LAWFUL JURISDICTION AND AUTHORITY TO ACT. A STATUTE

CANNOT grant jurisdiction without the Constitution forbids it (Gibson v. Republic of Iraq, 2001-182, 682 F.2d 1022 at 1028). IF THE EMPLOYEES HAVE NO WRITING AUTHORITY TO ACT, THEN WHETHER THEY DO IS UNIMPORTANT. IF THE EMPLOYEES HAVE JURISDICTION, THE COURT MUST

C-131 6. DETERMINE IF THE EMPLOYEES HAVE PROPERTY APPLIED THE LAWS AND BOP RULES. RULES MUST BE BASED ON STATUTORY AUTHORITY (Day v. DeLoach, 1957, 362 F.2d 101) AND CANNOT CONTRADICT IT. THE TO STRIKE DOWN BOP RULES THAT ARE UNCONSTITUTIONAL (Santifer v. Sorenson, 1972, 349 F.Supp 268). IF RULES REQUIRE EMPLOYEE CONSENT, AND EMPLOYEE VIOLATES THAT RULE, THERE IS NO SHIELD FROM LIABILITY (Leibowitz v. U.S., 1941, 134 F.2d 335, 113 C.C.L.W. 335). IF A RULE IS IN CONFLICT WITH A LAW, IT IS UNCONSTITUTIONAL (U.S. v. Heckard, 1962, 238 F.3d 222 at 123) 18 CFR 551.101 IS IN CONFLICT WITH 18 USC 4243 AND U.S. v. Jenkins, 1983, 463 U.S. 354. IF THE RULES ARE PRIOR -

C-132 7. THE COURT MUST DETERMINE IF THE ACTIONS OF THE GUARDIANS ARE LAWFUL, THE EMPLOYEES MUST BE QUALIFIED AND MUST NOT BE PROFESSORIAL (Youngberg v. Romeo, 1982, 457 U.S. 322). THE EMPLOYEES KNOW THAT THEY CANNOT TREAT PICTERS AS A CONSCIENT PRISONER (Lock v. Jenkins, 1981, 641 F.2d 488) AND MUST TREAT HIM BETTER (Hannigan v. Lee, 1981, 638 F.2d 1181) AND MUST MAKE PROFESSIONAL JUDGMENTS (Santifer v. Sorenson, 1972, 349 F.2d 101), IF THE EMPLOYEES HAVE NOT ACCES PRIMARY OR LIABILITY, THE COURT MUST

C-133 8. DETERMINE THE LEVEL OF LIABILITY IMPLICATED ON PICTERS, AND

C-134 9. THE AMOUNT OF DAMAGES TO AWARD FOR VICTIMIZING PICTERS' 1ST, 4TH, 5TH, 8TH, 9TH AMENDMENT RIGHTS UNDER THE U.S. CONSTITUTION AND FOR VIOLATING THE PROVISIONS OF 18 U.S.C. 246-242, 18 USC 4243 AND 4247, 18 USC 4201(a), 42 USC 10341, 42 USC 2000b-2(b)(1), 42 USC 1211, 50 U.S.C. 551-554 OTHER FEDERAL LAWS, FEDERAL REGULATIONS, UNION OF PRISON RULES AND POLICIES, CODE OF ETHICS AND EMPLOYEES CONDUCT, COMMON LAW, AND SUPREME COURT LAW, AND FOR CAUSING IRREVERSIBLE PHYSICAL, MENTAL, EMOTIONAL, AND SPIRITUAL LOSS, HARM, INJURY, AGGRESSION, DISTRESS, PAIN, AND SUFFERING.

C-135

PRAYER AND RELIEF

PITELLS PRAYS THAT THIS COURT RECOGNIZES THAT PITELLS IS A UNCONVICTED CIVIL MENTAL PATIENT (NOT A CONVICTED CRIMINAL PRISONER) AND THAT THE COURT USES THE STANDARDS OF "PATIENTS RIGHTS" AND NOT PRISONERS RIGHTS AS EXAMPLED IN US V JONES, 1981, 516 A2d 183, 411 A2d 624, 432 A2d 364, 463 A2d 354, YOUNGBERG V REHOG, 1982, 457 U.S. 507; PARNHAM V JAY, 1974, 442 U.S. 584; FOLCHER V LOVINSKY, 1992, 514 U.S. 71; PENHURST V HOLLOWBERRY, 1980, 451 U.S. 51; MICHAEL V PENHURST HOSPITAL, 1972, 407 U.S. 245; HUMPHREY V CODY, 1972, 405 U.S. 504; REEDIE V KLEIN, 1979, 458 U.S. 119; O'CONNELL V DELAHOUQUE, 1987, 422 U.S. 563; DESANTO V GEMERBERG, 1989, 499 U.S. 189; CHICAGO HOSP V N.Y. T.C. 1992, 659 F.2d 1132, US TRUST V NJ, 1973, 431 U.S. 1; BUTCH V ANDERSON, 1974, 376 F.Supp. 406, 457 F.Supp. 119, 447 F.2d 516, 564 F.2d 188; 574 F.2d 786, 614 F.2d 251; SOCIETY OF CHRIST, 731 F.2d 1259; DOCC V DOCC, 1984, 724 F.2d 461 AND OTHER CASES INVOLVING NON-PRISONER CIVIL PATIENTS;

PITELLS PRAYS THAT THE COURT FOLLOWS THE ADMINISTRATIONS OF THE COURT IN REHOG V YOUNGBERG, 1982, 457 U.S. 507 AFF 457 U.S. 507 THAT IF CANNOT TAKE CASE LAW DECISIONS FOR CONVICTED PRISONERS AND APPLY THESE DECISIONS TO CIVIL COMMITMENTS;

PITELLS PRAYS THAT THIS COURT USES THE TOTALITY OF CIRCUMSTANCES STANDARDS IN ASSESSING THE CONDITIONS OF CONFINEMENT

PITELLS PRAYS THIS COURT USES THE INFLUENCE SURVIVAL STANDARDS IN INTERPRETING THE NEEDS AS THE ABSOLUTE STANDARD

PITELLS PRAYS FOR RELIEF AND RELEIF

PITELLS PRAYS FOR DETERMINACY JUDGMENT AND REQUEST THE COURT TO DECIDE;

1. PITELLS DOES NOT FALL UNDER THE JURISDICTION OF 18 USC 4243 IF HE IS ACTUALLY INNOCENT AND DID NOT COMMIT A CRIME BECAUSE THE STATES RESPONSES ARE CLOSE TO 100% (NOT COMMITTED);

2. THE FEDERAL GOVERNMENT DOES NOT HAVE A CIVIL HOSPITAL IN WHICH TO CONFINe
SICK OR INSANE AT TIMES AND 18 USC 4243 REQUIRES "HOSPITALIZATION;"
3. THERE ARE NO PROVISIONS IN THE FEDERAL MENTAL HEALTH LAW THAT ALLOWS, OR AUTHORIZES,
FEDERAL CONFINEMENT OF INSANITY ACQUITTees OR OTHER FEDERAL CIVIL COMMITMENTS,
4. THE U.S. ATTORNEY GENERAL ABUSED HIS DISCRETION, MADE CLEARLY ERRONEOUS INTERPRETATIONS
AND CONCLUSIONS OF LAW AND FACT, AND THEN MISAPPLIED THE PROVISIONS OF 18 USC 4243
AND 18 USC 4247;
5. NEITHER THE COURES NOR THE U.S. ATTORNEY GENERAL HAVE LAWFUL JURISDICTION OR AUTHORITY TO
COMMIT INSANITY ACQUITTees TO THE CUSTODY AND CONFINEMENT, OF THE U.S. BUREAU OF PRISONS,
6. THE U.S. BUREAU OF PRISONS DOES NOT HAVE LAWFUL CUSTODY, JURISDICTION, OR AUTHORITY
OVER PRISERS OR ANYONE COMMITTED UNDER 18 USC 4243 OR 18 USC 4246,
7. EMPLOYEES AND MEMBERS OF THE U.S. BUREAU OF PRISONS (REGULAR OR UNDER CONTRACT) DO
NOT HAVE LAWFUL CUSTODY, JURISDICTION, OR AUTHORITY OVER PRISERS OR ANYONE SUBJECT
TO 18 USC 4243 OR 18 USC 4246; THEY ACTED IN ABSENCE OF ANY, AND NO, JURISDICTION;
8. EMPLOYEES AND MEMBERS OF THE U.S. BUREAU OF PRISONS ARE NOT LEGALLY QUALIFIED TO CARE
FOR, OR TREAT PRISERS OR ANYONE SUBJECT TO 18 USC 4243 OR 18 USC 4246;
9. THERE IS A LEGAL AND CONSTITUTIONAL DIFFERENCE BETWEEN UNCLASSIFIED CIVIL
MENTAL PATIENTS AND CONVICTED CRIMINALLY SENTENCED PRISONERS AND UNCLASSIFIED
CIVIL PATIENTS CANNOT BE TREATED AS BEING CRIMINAL OR SENTENCED PRISONERS;
10. UNCLASSIFIED CIVIL PATIENTS HAVE MORE RIGHTS AND PRIVILEGES THAN DEFENDANT
DETAINees OR CONVICTED PRISONERS
11. UNCLASSIFIED CIVIL MENTAL PATIENTS HAVE, AT LEAST, THE SAME, OR GREATER, RIGHTS
OF A PERSON IN FEDERAL CONFINEMENT;
12. UNCLASSIFIED CIVIL MENTAL PATIENTS CANNOT BE SUBJECTED TO THE RULES AND
REGULATIONS OF A STATE OR PRISON AND MUST HAVE THEIR OWN SPECIFIC, PARTICULARIZED
SET OF RULE AND REGULATIONS DESIGNED TO PREVENT HARM, RECOVERY AND REHABILITATION;

13. THE SUPERVISORY STAFF OF THE U.S. BUREAU OF PRISONS FAILED TO PROPERLY AND ADQUATELY TRAIN AND SUPERVISE SUBORDINATE B.O.P. MEMBERS IN THE CARE, TREATMENT, AND PROVIDING SERVICES FOR UNCHANGED CIVIL MENTAL PATIENTS

14. THOSE COMMITTED UNDER 18 USC 4243 OR 18 USC 4246 MUST BE TREATED AS PATIENTS - NOT PRISONERS; AND HAVE A ADVOCACY - 42 USC 1983

15. PHILIPS SUFFERED UNLAWFUL AND UNCONSTITUTIONAL ABUSE AND MISTREATMENT BY U.S. BUREAU OF PRISON EMPLOYEES AND MEMBERS;

16. PHILIPS HAS BEEN UNWILLY AND UNCONSCIOUSLY INCARCERATED AND IMPLICATED IN THE U.S. BUREAU OF PRISONS

17. PHILIPS HAS SUFFERED A DEPRIVATION, DENIAL, AND VIOLATION OF HIS CONSTITUTIONAL, STATUTORY, CIVIL, AND COMMON LAW COUNTERTEES, FREEDOMS, LIBERTIES, RIGHTS, PRIVILEGES, IMMUNITIES, PROTECTIONS, AND SAFEGUARDS

18. THE RESPONDENTS KNEW THE CONSTITUTIONAL THUS LAWS, AND UNDERSTOOD THE CONSTITUTION AND THE LAWS, BUT STILL KNOWINGLY, INTENTIONALLY, AND WILLINGLY ACTED CONTRARY TO THE CONSTITUTION AND THE LAWS; AND ACTED WITHOUT PROFESSIONAL JUDGEMENT

19. THE RESPONDENTS CRIMED PHILIPS IRREPARABLE PHYSICAL, MENTAL, EMOTIONAL, AND SPIRITUAL LOSS, HARM, INJURY, AND SICK, DISTRESS, PAIN, AND SUFFERING;

20. PHILIPS HAS SUFFERED A MISCHIEF OF JUSTICE AND A MANIFEST INJUSTICE AND BOTH ARE COMPENSABLE UNDER THE CONSTITUTION AND THE LAWS.

21. PHILIPS IS A PATIENT-NOT A PRISONER AND LAWS AND RULES FOR PRISONERS DO NOT APPLY TO HIM.

PHILIPS PRAYS FOR PUNITIVE DAMAGES IN THE AMOUNT OF TWO MILLION (2,000,000) IN ROLLING DOLLARS FROM EACH RESPONDENT,

PHILIPS PRAYS FOR ATTORNEY FEES AND COST;

PHILIPS PRAYS FOR INJUNCTIVE RELIEF ENJOINING THE B.O.P. FROM CONFINING ANY PERSON SUBJECT TO THE PROVISIONS OF 18 USC 4243 OR 18 USC 4246;

PHILIPS PRAYS FOR ANY OTHER RELIEF AND REMEDY THE COURT DEEMS FAIR, JUST, PROPER, AND NECESSARY TO PROMOTE JUSTICE, TO REACH A MISHMASH OF JUSTICE, AND TO MEET THE ENDS OF JUSTICE

Respectfully submitted on this 30th day of JANUARY, 2005

Coy Phelps

IN PRO SE

COY PHELPS 78872-011

FMC - DEVENS

42 PITTEN RD

P.O. BOX 879

AYER, MA 01432

C-136

CERTIFICATION

I, COY PHELPS, CERTIFY under Penalty of Perjury, Pursuant to 28 USC 1746, THAT
I AM THE PETITIONER IN THIS ACTION AND THAT ALL THE STATEMENTS MADE HEREIN
WERE MADE BY ME, AND THAT ALL THE STATEMENTS ARE TRUE AND CORRECT
ACCORDING TO MY BEST KNOWLEDGE AND BELIEF

DATE: 1-30-2005

Coy Phelps

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01432

CERTIFICATE OF SERVICE

SEE THE SERVICE INFORMATION ON THE REVERSE SIDE OF THE SIGNATURES

Coy Phelps